IN THE

Supreme Court of the United States

DEC 19 197
CAK, JR.,

October Term, 1973

No. 73 - 952

SILAS ECTOR,

Petitioner,

vs.

CITY OF TORRANCE, a Municipal Corporation; EDWARD J. FERRARO, City Manager, *et al.*,

Respondents.

Petition for a Writ of Certiorari to the Supreme Court of California.

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CITY OF TORRANCE, a Municipal Corporation; EDWARD J. FERRARO, City Manager, *et al.*,

Respondents.

Petition for a Writ of Certiorari to the Supreme Court of California.

Petitioner prays that a Writ of Certiorari issue to review the decision of the Supreme Court of California in the case of *Ector v. City of Torrance, et al.* This case was heard by the California Supreme Court and decided on October 2, 1973.

Opinions Below.

The judgment and opinion of the Los Angeles Superior Court is unpublished. A copy is filed herewith as Appendix "A". The opinion of the California Court of Appeal, Second Appellate District, is not officially reported. A copy is filed with this Petition as Appendix "B". The opinion of the Supreme Court of California is officially reported in 10 Cal.3d 129; ..... Cal.Rptr. .....; ..... P.2d ..... (1973). A copy is filed with this Petition as Appendix "C".

Jurisdiction.

The judgment of the California Supreme Court was entered on November 7, 1973. The jurisdiction of this Court is invoked under the provisions of 28 U.S.C. §2101(c).

Questions Presented.

1. Whether intrastate travel is a fundamental constitutional right;

2. Whether the Torrance City Charter which requires as a condition to employment that all officers and employees thereof become residents *within* six months from the date of appointment penalizes or burdens the exercise of the fundamental constitutional right to travel and vote in violation of the Equal Protection Clause of the Fourteenth Amendment, and thus must be shown necessary to promote a compelling governmental interest.

3. Whether that portion of the Torrance City Charter, which requires as a condition to employment that all officers and employees become residents thereof *within* six months from the date of appointment, is necessary to promote a compelling governmental interest.

Ordinance.

Torrance, Cal. City Charter, Art. VII, §6:

> "All officers and employees of the City of Torrance shall be or become residents of said City within six (6) months after their appointment or date of employment provided, however, that as to appointive officers or employees having technical, special or professional knowledge or abilities, the City Council may waive the residence require-

ments. No officer or employee may be appointed permanently in the classified service unless and until he has become a resident of the City."

Statement.

On or about April 15, 1968, petitioner commenced employment with the City of Torrance as Senior Librarian. Subsequently he was permanently appointed to the position of Principal Librarian in the Classified Civil Service of that City. [C.T. p. 2, lines 2-10; p. 22, line 25.]

It is not controverted by respondents that on or about February 19, 1971, petitioner was discharged and dismissed from this position and denied all benefits incident thereto for the sole and exclusive reason that he was not, and did not intend to become, a resident of the City of Torrance as required by Article VII, Section 6 of the Torrance City Charter. This Charter provision provides as follows:

> "All officers and employees of the City of Torrance shall be or become residents of said City within six (6) months after their appointment or date of employment provided, however, that as to appointive officers or employees having technical, special or professional knowledge or abilities, the City Council may waive the residence requirements. No officer or employee may be appointed permanently in the classified service unless and until he has become a resident of the City."

Trial Court Proceedings.

Petitioner thereafter sought a Writ of Mandate from the Superior Court of Los Angeles County, State of California, which would command respondents to va-

cate the order of discharge and reinstate petitioner to his former status, with full compensation retroactive to the date of dismissal. In his Petition for Writ of Mandate petitioner alleged that the residency requirement imposed by respondents' City Charter was unconstitutional. More specifically, petitioner asserted that the residency requirement imposed by the Torrance City Charter was, among other things,[1] in violation of his federal constitutional rights as follows: (a) His right to equal protection of the law; (b) His right to freedom of travel; and (c) His right to reside in a location of his own choosing.[2]

On March 5, 1971, the Alternate Writ of Mandate issued. On May 12, 1971, a hearing was held in the Los Angeles Superior Court. On July 26, 1971, the Peremptory Writ was denied and the Alternate Writ discharged and judgment was rendered in favor of respondents.

The trial court determined as fact that the petitioner was not a resident of the City of Torrance. In addition, the trial court made the factual determination

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[1]It was also petitioner's contention below that Section 50083 of the California Government Code prohibited respondents from requiring residence as a condition of employment. Section 50083 provides in its entirety: "No local agency or district shall require that its employees be residents of such local agency or district." The California Supreme Court held that this specific statutory provision did not prohibit charter cities, such as respondent, from enacting the residency requirement at issue here. *Ector v. City of Torrance*, 10 Cal.3d 129, 132-134; .... Cal. Rptr. ....; .... P.2d .... (1973).

[2]In addition to the foregoing constitutional issues, petitioner asserted that the subject ordinance violated State and federal constitutional rights, not at issue here, including the right to public employment; inalienable rights as set forth in Art. I, §1 and Art. I, §26 of the California Constitution, and the Privileges and Immunities Clause of the Fourteenth Amendment of the United States Constitution.

that "petitioner was discharged from his position as librarian and all other employment with the City and removed from the civil service and denied all benefits incident thereto for the sole and exclusive reason that he was not then and did not intend to become a resident of the City." [Finding of Fact 4, C.T. 97, lines 19-24.] In construing the purpose of the challenged Charter provision, the court's finding of fact was as follows:

> "6. A purpose behind the imposition of the residence requirement was the incidental benefit to respondent City resulting from the fact that public employees, including petitioner would tend more readily to spend their earnings in respondent City if they resided there which expenditures would include the payment of local taxes, rents and shopping, to the general economic benefit of the community, which expenditures would be hardly likely for non-residents. [¶]"

Relevant portions of the trial court's conclusions of law were that the action of respondent did not violate the constitutional rights of petitioner under the Constitution of the United States in that (a) Petitioner was not denied equal protection of the law, nor the freedom to travel. *Id.* at 5. Furthermore, the trial court ruled the "requirement and restrictions of residence for City's municipal employees is reasonable and rational and furthers the public welfare of the City." *Id.* at 5. The full text of the Los Angeles Superior Court's opinion is set forth in the attached Appendix A.

Proceedings in the California Court of Appeal.

The judgment of the Los Angeles Superior Court was appealed to the California Court of Appeal, Second Appellate District. Petitioner there renewed *inter alia* his constitutional contentions and specifically

assigned error to the Superior Court's ruling that the "purpose behind the imposition of the residency requirement was the incidental benefit to Respondent City resulting from the fact that public employees, including Petitioner, would tend more readily to spend their earnings in Respondent City if they reside there . . ." [Finding of Fact 6, C.T. pp. 97-98.]

In addition, Petitioner asserted that the court below "erred in failing to apply the compelling public interest test" to the subject ordinance. Specifically, Petitioner contended:

1. The requirement of residency for municipal employees, embodied in the City Charter of the City of Torrance, Article VII, Section 6, impaired Petitioner and all municipal employees in the exercise of their "fundamental rights".

2. Pursuant to the Due Process and Equal Protection Clause of the Fourteenth Amendment, a "chilling" of "fundamental rights" can be justified only if the inhibition on the free exercise of such rights is counterbalanced by a "compelling public interest" and, if the burdens imposed are necessary to achieve such "compelling public interest".

3. The Court below erred in failing to apply the "compelling public interest" test.

4. The City of Torrance failed to produce substantial evidence that the residency requirement of the City of Torrance was necessary to promote a "compelling public interest".

5. The residency requirement is not even rationally related to the accomplishment of a legitimate governmental objective.

On appeal, the California Court of Appeal reversed the trial court in a unanimous opinion. The Court of Appeal initially observed that a stringent test with respect to compliance with the Equal Protection Clause is applicable "when a differentiation embodied in a challenged enactment adversely affects a fundamental constitutional right". App. B at 12. In reviewing the teachings of *Shapiro v. Thompson*, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600, the court concluded that the right to travel was indeed a fundamental right under the Constitution. App. B at 12. In this connection the court, quoting *Krzewinski v. Kugler*, 338 F.Supp. 492 (D.C. N.J. 1972) noted:

> That the State of New Jersey, by attempting to enforce the residency requirement, would be penalizing the right to travel to a substantial degree is also clear . . . We find, therefore, that the impact of the challenged statute implicates sharply enough the right to travel to require our application of the compelling state interest test. [Citations.] *Id.* at 14.

The court further took note of that portion of *Krzewinski* which held the "public coffer" theory—employed as one of the main predicates to justify the challenged residency ordinance by the Superior Court in the instant case—as an unconstitutional justification for the residency requirement imposed under the New Jersey police and fireman residency statute. The Court of Appeal acknowledged and took note of the distinction between emergency (policeman-fireman) and non-emergency personnel:

> . . . [o]rdinarily the nature of the duties of policeman and fireman is substantially distinguish-

able from that of the duties of other city employees and affords a valid basis for a requirement of residence. In the case presently before this court, the question as to the validity of the pertinent provision of the City Charter of Torrance as applied to policeman and fireman is not presented and no determination is made with respect to that matter.

It is to be further noted that earlier cases which upheld residency requirements imposed upon city employees did not consider the matter in the light of the strict standard now prescribed by the United States Supreme Court for the review of an enactment which limits a fundamental right. (See *Purdy & Fitzpatrick v. State of California, supra,* 71 Cal.2d 566, 578-579.) Thus, no determination was made as to whether the municipality had sustained the burden of establishing not only that it had a compelling interest which justified the enactment but that the distinctions drawn by the enactment were necessary to further its purpose. *Id.* at 17-18.

Observing that petitioner was employed as a librarian, the Court of Appeal applied the foregoing constitutional standards and concluded that "no justification has been shown for an impingement upon his right of freedom to travel beyond the boundaries of the City for residential purposes. *Id.* at 18. The full text of the California Court of Appeal decision is set forth in Appendix B.

Supreme Court of California Proceedings.

On appeal, the California Supreme Court reversed the ruling of the lower appellate court and rejected petitioner's assertion that the residency requirement of respondent's City Charter was unconstitutional. The California Supreme Court refused to apply the strict equal protection test applied below, *i.e.*, that the challenged charter provision must be shown to be "necessary" to promote a "compelling" governmental interest. *Ector v. Torrance*, 10 Cal.3d 129 at 135-137 (1973). The court dismissed petitioner's assertion that the instant residency requirement impinged on his "right to travel". *Id.* at 135. It labeled petitioner's claim of the right to travel between his home and place of work as a "right to commute" not envisioned by any rulings of this Court. *Id.* at 135. As Justice Mosk stated:

> "Viewed realistically, appellant is claiming the right to 'travel' between his home and his place of employment each morning and evening of each working day—in other words, a 'right to commute'. We cannot discern such a right in the United States Supreme Court decisions relied on by appellant. Clearly the cultural and educational rewards of international travel (*Kent v. Dulles* (1958) 357 U.S. 116, 126-127 [2 L.Ed.2d 1204, 1210-1211, 78 S.Ct. 1113]) are not reaped from routine daily trips of a harassed metropolitan commuter. Nor have such trips any relevance whatever to the right to migrate among the several states for the purpose of starting a new life without fear of being denied welfare if a job is not immediately available (*Shapiro v. Thompson* (1969) 394 U.S. 618 [22 L.Ed.2d 600, 89 S.Ct. 1322]), or to the right to move within the con-

fines of a state for the same purpose without fear of being denied prompt access to public housing facilities (*King v. New Rochelle Municipal Housing Authority* (2d Cir. 1971) 442 F.2d 646; *Cole v. Housing Authority of City of Newport* (1st Cir. 1970) 435 F.2d 807). Each of the latter decisions invalidated not a residence requirement as such but a *durational* residence requirement, i.e., a requirement that the migrant not only be a resident but maintain that status for a certain minimum period of time before he qualifies for benefits. [Citations omitted.] There is no similar 'waiting period' in the provision before us, but simply a requirement of residence in the community in order to be a municipal employee. Nothing in *Shapiro* or any of its progeny stands for the proposition that an indigent may demand public assistance without being a bona fide resident of the state or locality to which he has migrated. (See also *Dunn v. Blumstein*, (1972) 405 U.S. 330, 334 [31 L.Ed.2d 274, 279, 92 S.Ct. 995] [state cannot require unreasonable period of residence as precondition to exercise of right of suffrage, but can require actual residence at time of voting]; *Thompson v. Mellon* (1973) 9 Cal.3d 96, 106 [107 Cal.Rptr. 20, 507 P.2d 628] [same rule governs right to be a candidate for public office].) Indeed, the provision here challenged does not even require immediate residence, but gives each employee six months in which to 'become' a resident of respondent city—i.e., the exact converse of a waiting period." *Id.* at 135-136.

The court, moreover, employed the more traditional equal protection test to determine whether the challenged residency requirement bore a "rational relationship to one or more legitimate state purposes". *Id.* at 134-135.

In applying this constitutional standard, the court relied upon a number of State court decisions.[3] In applying this test, the court observed:

> "Among the governmental purposes cited in these decisions or now urged by amici curiae are the promotion of ethnic balance in the community; reduction in high unemployment rates of inner-city minority groups; improvement of relations between such groups and city employees; enhancement of the quality of employee performance by greater personal knowledge of the city's conditions and by a feeling of greater personal stake in the city's progress; diminution of absenteeism and tardiness among municipal personnel; ready availability of trained manpower in emergency situations; and the general economic benefits flowing from local expenditure of employees' salaries. We cannot say that one or more of these goals is not a legitimate state purpose rationally promoted by the municipal employee residence requirement here in issue." *Id.* at 135.

The full text of the California Supreme Court's decision is set forth in Appendix "C".

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[3]See, *e.g.*, *Hattiesburg Firefighters Local 184 v. City of Hattiesburg* (Miss. 1972) 263 So.2d 767; *Williams v. Civil Service Com'n of City of Detroit* (1970) 383 Mich. 507 [176 N.W. 2d 593, 596-598]; *Mercadante v. City of Paterson* (1970) 111 N.J.Super. 35 [266 A.2d 611] affd. *per curiam* (1971) 58

(This footnote is continued on next page)

REASONS FOR GRANTING THE WRIT.

The instant case presents important and recurring questions concerning the constitutionality of municipal residency requirements and the fundamental right to travel intrastate. Moreover, the ruling of the California Supreme Court is in direct conflict with decisions of this Court. The specific issues herein presented have never been resolved by this Court and the numerous and conflicting opinions of various State and federal courts throughout the nation demonstrate the necessity for such resolution.

A. The Importance and Recurring Nature of the Issues Presented by the Instant Petition.

A large number of municipalities throughout the United States have in force residency requirements as a condition to employment. Their fundamental characteristics are similar to those of the challenged residency requirement here under consideration,[4] although they vary in imposing conditions precedent or subsequent and in the imposition of durational requirements. The

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N.J. 112 [275 A.2d 440]; *Salt Lake City Fire Fighters Local 1645 v. Salt Lake City* (1969) 22 Utah 2d 115 [449 P.2d 239, 240]; *Marabuto v. Town of Emeryville* (1960) *supra*, 183 Cal.App.2d 406; *Kennedy v. City of Newark* (1959) 29 N.J. 178 [148 A.2d 473, 475-476]. *Id.* at 134.

[4]See *e.g.*, Charter of the City of Compton, §1104 which provides: "No person may be an applicant . . . who has not resided in the City of Compton for at least one year next preceding the date of such examination." The San Francisco, California Ordinance §16.98-1 (1966) requires that ". . . [t]he residence requirement for persons entering the entrance rank of uniformed forces of the Fire Department shall be that applicants must have resided in San Francisco for the last three years." Section 25-30 of the Chicago Municipal Code provides: "All

Torrance City Charter requires that a municipal employee become a resident *within* six months from the date of employment.[5] The City of San Francisco requires members of its Fire Department to be residents at least three years prior to appointment. Chicago and Detroit require only that an employee be a resident at the time of appointment.[6] Only 36% of all counties and 17% of all cities are without some form of residency requirement.[7] If elected and appointed officials are extracted from consideration, the statistics show that 55% of the cities and 57% of the counties throughout the United States require residency as a condition of employment.[8] The fundamental constitutional question posed by all such residency requirements is whether they deny equal protection of the law under the Fourteenth Amendment and, specifically, whether they impinge or place a burden upon the fundamental rights to travel intrastate and vote, thus requiring application of the compelling state interest test to justify the enactment.

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officers and employees in classified civil service of the City shall be actual residents of the City. Any officer or employee in the classified civil service of the City who shall fail to comply with the provisions of this section shall be discharged from the service of the City in the manner provided by law."

[5]Torrance City Charter, Art. VII, §6;

[6]See Chicago Municipal Code, §25-30; Detroit, Michigan Ordinance 327-G (June 8, 1968);

[7]See B.N.A. Municipal Yearbook 160, Table 2 (1967); B.N.A. Municipal Yearbook 181, Table 12 (1970); B.N.A. Municipal Yearbook 187 (1971);

[8]*Id.* also see Comment, Residency Requirement for Municipal Employees: Denial of Right to Commute, 7 U.S.F.L.Rev. 508, 511 (1973).

B. The Ruling of the California Supreme Court That Petitioner Had No Fundamental Right to Travel Is in Conflict With the Decisions of This Court. The Supreme Court of the United States, Although Not Reaching the Specific Issue Here Presented, the Right to Intrastate Travel, Has Held That the Right to Travel and Vote Are Fundamental Rights Which Require Imposition of the Compelling State Interest Test When Such Rights Are Penalized or Burdened.

The decision of the California Supreme Court holding that petitioner has no fundamental right to travel is in conflict with the decisions of this court.

In *United States v. Guest,* 383 U.S. 745, 758, 86 S. Ct. 1170 (1966) this court noted:

> "[F]reedom to travel *throughout* the United States has long been recognized as a basic right under the Constitution." [Emphasis supplied]. See also *Passenger Cases,* 7 How. 283, 492, 12 L.Ed. 702, 789 (1849) (Taney, C.J.); *Crandall v. Nevada,* 6 Wall. 35, 43-44, 18 L.Ed. 745, 747 (1868); *Paul v. Virginia,* 8 Wall. 168, 180, 19 L.Ed. 357, 360 (1869); *Edwards v. California,* 314 U.S. 160, 62 S.Ct. 164, 86 L.Ed. 119 (1941); *Kent v. Dulles,* 357 U.S. 116, 126, 78 S.Ct. 1113, 2 L.Ed. 2d 1204 (1958).

In *Shapiro v. Thompson,* 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600 (1969) the Supreme Court considered durational residence requirements where the pertinent statute imposed a one-year waiting period for interstate migrants as a condition to receiving welfare benefits. In holding that the inhibition of migration was unconstitutional, Mr. Justice Brennan defined

the historic reaches of the fundamental right to travel, stating:

> "This Court long ago recognized that the nature of our Federal Union and our constitutional concepts of personal liberty united to require that *all citizens be free to travel throughout the length and breadth of our land* uninhibited by statutes, rules, or regulations which unreasonably burden or restrict this movement." 394 U.S. 618, 629 (1969). [Emphasis supplied.]

Further, Justice Brennan observed that the purpose of deterring in-migration of indigents was constitutionally impermissible, for ". . . if a law has no other purpose . . . than to chill the assertion of constitutional rights by penalizing those who choose to exercise them, then it [is] patently unconstitutional." *Id.* at 631, quoting *United States v. Jackson,* 390 U.S. 570, 581 (1968).

In *Shapiro,* this Court specifically rejected the "public coffer" argument. Justice Brennan noted that it was difficult to understand how long-term residents who qualified for welfare could make a greater present contribution to the state in taxes than recently arrived indigents. He observed that it was equally difficult to comprehend the logic of the argument where a large proportion of those denied welfare because of the waiting period had lengthy prior residence within the jurisdiction during which time contribution to the community through taxes may well have been made. In dismissing this rationale, Justice Brennan asserted

> "[A]ppellants' reasoning would logically permit the State to bar new residents from schools, parks and libraries or deprive them of police and fire protection. Indeed it would permit the State to

> apportion all benefits and services according to the past tax contributions of its citizens. The Equal Protection Clause prohibits such an apportionment of state services." *Id.* at 632-33.

While allowing that a state had a valid interest in conserving its fiscal resources, Justice Brennan stated emphatically that the State could not accomplish the purpose by invidious discrimination between classes of citizens. *Id.* at 394 U.S. 627-633, 89 S.Ct. 1322, 22 L.Ed.2d 600, 611-615.

The states next attempted to advance administrative objectives promoted by the waiting-period—planning of the budget, objectively testing for residency, preventing fraudulent receipt of benefits, and encouraging ". . . *early entry of new residents into the labor force*". [Emphasis added] *Id.* at 634. In discussing these state interests, Justice Brennan rejected the states' argument that a mere showing of a rational relationship between the waiting-period and these objectives would suffice to justify the classification.

> "The waiting-period provision denies welfare benefits to otherwise eligible applicants solely because they have recently moved into the jurisdiction. But in moving from State to State or to the District of Columbia appellees were exercising a constitutional right, and any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a *compelling* governmental interest, is unconstitutional." [emphasis in original]. *Id.*

Holding that the states failed to meet the burden of demonstrating a compelling interest necessary to uphold such a law, Justice Brennan concluded:

> "Since the classification here touches on the fundamental right of interstate movement, its constitutionality must be judged by the stricter standard of whether it promotes a compelling state interest. Under this standard, the waiting period requirement clearly violates the Equal Protection Clause." *Id.* at 638.

This Court thus struck down the residency requirements for receipt of welfare benefits. 394 U.S. 618, 629 (1969).

In *Dunn v. Blumstein*, 405 U.S. 330, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972) the constitutionality of Tennessee's durational residency requirement for purposes of voting was challenged. The Tennessee law authorized registration to vote only to those who, at the time of the next election, had been residents of the State for one year and were residents of the county for at least three months. In *Dunn*, Mr. Justice Marshall, writing for this Court, stated:

> "Durational residence requirements completely bar from voting all residents not meeting the fixed durational standards. By denying some citizens the right to vote, such laws deprive them of 'a fundamental political right . . . preservation of all rights". [Citations omitted.] There is no need to repeat now the labors undertaken in earlier cases to analyze this right to vote and to explain in detail the judicial roll in reviewing state statutes that selectively distribute the franchise. In decision after decision, this Court has made clear that a

> constitutionally protected right to participate in elections on an equal basis with other citizens in the jurisdiction." [Citations omitted.] 405 U.S. 336, 31 L.Ed.2d 280 (1972).

Moreover, this Court held that a compelling State interest test is required to be employed where any statute "place[s] a condition on the exercise of the right to vote". 405 U.S. 337, 31 L.Ed.2d 281 (1972).

In the instant case, the residency requirement imposed by respondent's City Charter in interfering with the fundamental right to travel, also penalizes petitioner by placing an unconstitutional condition on his right to vote. If he is forced to relinquish his right to travel to and from his present home in another jurisdiction in order to receive the benefits of employment, petitioner must also relinquish his right to vote in the jurisdiction where he resides. It was this exact type of situation which caused this Court to strike down the statute in *Dunn:*

> "Only last Term, it was specifically noted that because a durational residence requirement for voting 'operates to *penalize* those persons, and only those persons, who have exercised their constitutional right of interstate migration . . . [it] may withstand constitutional scrutiny only upon a clear showing that the burden imposed is necessary to protect a compelling and substantial governmental interest. *Oregon v. Mitchell,* 400 U.S. at 238, 27 L.Ed.2d at 346 (separate opinion of Brennan, White, and Marshall, JJ.). (Emphasis added.) Of course, it is true that the two individual interests affected by Tennessee's durational residence requirements are affected in different ways. *Travel-*

is permitted, but only at a price; voting is prohibited. The right to travel is merely penalized, while the right to vote is absolutely denied. But these differences are irrelevant for present purposes. *Shapiro* implicitly realized what this Court has made explicit elsewhere: 'It has long been established that a State may not impose a penalty upon those who exercise a right guaranteed by the Constitution. . . . 'Constitutional rights would be of little value if they could be . . . indirectly denied' . . ." *Harman v. Forssenius,* 380 U.S. 528, 540, 14 L.Ed. 2d 50, 58, 85 S.Ct. 1177 (1965). See also *Garrity v. New Jersey,* 385 U.S. 493, 17 L.Ed.2d 562, 87 S.Ct. 616 (1967), and cases cited therein; *Spevack v. Klein,* 385 U.S. 511, 515, 17 L.Ed.2d 574, 577, 87 S.Ct. 625 (1967). [The right to travel is an *'unconditional* personal right', a right whose exercise may not be conditioned.] *Shapiro v. Thompson,* 394 U.S., at 643, 22 L.Ed.2d at 620 (Stewart, J., concurring) (Emphasis added.); *Oregon v. Mitchell, supra,* at 292, 27 L.Ed.2d at 377 (Stewart, J., concurring and dissenting, with whom Burger, C.J., and Blackmun, J., joined). Durational residence laws impermissibly condition and penalize the right to travel by imposing their prohibitions on only those persons who have recently exercised that right. In the present case, such laws force a person who wishes to travel and change residences to choose between travel and the basic right to vote. Cf. *United States v. Jackson,* 390 U.S. 570, 52-583, 20 L.Ed.2d 138, 147, 88 S.Ct. 1209 (1968). Absent a compelling state interest, a State may not burden the right to travel in this way." *Id.* [Emphasis supplied].

The California Supreme Court attempted to distinguish the durational residency requirement in *Shapiro*, with that presented here, noting: "On almost every page of its lengthy analysis in *Shapiro* (394 U.S. at 627-642 [22 L.Ed.2d at pp. 610-619] the court characterized this pre-condition as a "waiting period requirement". *Ector, supra* at 135. This proffered distinction however is spurious. Here as in *Shapiro* a durational requirement is imposed; not in the form of a condition precedent but as a condition subsequent to employment. Notwithstanding, it places a like burden to relinquish the right to travel. It is constitutionally insignificant that this burden is placed upon an employee before or after he commences employment. The important consideration is that it places a condition on the exercise of fundamental rights at all. See *Dunn, supra* at 405 U.S. 337, 31 L.Ed.2d 281 (1972).

It is thus apparent that the strict equal protection test was required to be imposed on the subject charter provision. Applying the principles annunciated in *Shapiro*, it has not been shown that the residency requirement was "necessary" to promote a "compelling" governmental interest. The governmental purposes cited by the California Supreme Court in justification of the ordinance do not pass constitutional muster in conformance with *Shapiro*. Moreover, it should be noted that the California Supreme Court totally failed to take into consideration the specific findings of fact of the trial court which justified the existence of the ordinance solely on the basis of the 'public coffer' rationale. See App. B at 5. As this court noted in *Shapiro*, such a justification is constitutionally impermissible under a compelling state interest test. *Shapiro*, at 394 U.S. 631-634. It is abundantly clear today that municipalities

may not tie economic benefits in with contributions made to the municipal economy. *Id.* at 632-633, 89 S.Ct. 1322, 22 L. Ed.2d at 632, 633. As stated by Circuit Judge Adams in *Krzewinski v. Kugler,* 328 F. Supp. 492, 499 (U.S.D.C. N.J. 1972):

> "Any reliance upon these outdated, and apparently unconstitutional theories is disavowed by this court. Other courts have likewise read *Shapiro* to command such disavowal. *Leger v. Sailer,* 321 F.Supp. 250 (E.D. Pa 1970), aff'd *sub. nom. Graham v. Richardson, supra, Donnelly v. City of Manchester,* 274 A.2d 789 (N.H.1971)"

C. The Issue Here Presented, the Right to Intrastate Travel, or the Right to Commute, Has Not Specifically Been Ruled Upon by This Court.

In *Shapiro,* of course, this court addressed itself specifically to the right to travel interstate. In the instant case we are dealing with the right to migrate within a State or intrastate travel. The California Supreme Court ruled that such a right was not encompassed under the rulings of this court. *Ector, supra,* 10 Cal.3d 129 at 135. The California ruling, however, seems to be at variance with the underlying rationale of *Shapiro.* The court in *Shapiro* did not link the right to travel with any specific constitutional provision, commerce or otherwise. *Shapiro v. Thompson, supra,* 394 at 630, N.8, 89 S.Ct. 1322, 22 L.Ed.2d at 498; see also *Graham v. Richardson,* 403 U.S. 365, 375, 91 S.Ct. 1848, 29 L.Ed. 2d 534, 543-544 (1971). Moreover, the right to travel intrastate must of necessity be a natural and incidental outgrowth of interstate travel. To hold otherwise would effectively delimit the full constitutional dimensions of the fundamental right to interstate travel.

This later proposition has been recognized by the United States Second Circuit Court of Appeals. *King v. New Rochelle Municipal Housing Auth.*, 442 F.2d 646 (2d Cir. 1971). In *King*, Circuit Judge Waterman noted:

> "The Authority would distinguish *Shapiro* on several grounds. It is urged first that *Shapiro* does not apply to intrastate travel and therefore the residency requirement does not affect any fundamental right of respondents Green and Frazier, both of whom moved to New Rochelle from cities within New York State. However, we do not believe that the use of the term 'interstate travel' in *Shapiro* was anything more than a reflection of the statewide enactments involved in that case. Indeed, the Supreme Court specifically refused to ascribe the source of the right to travel to a particular constitutional provision, 394 U.S. at 630 and n. 8, 89 S.Ct. at 1329 but relied on 'our constitutional concepts of personal liberty', 394 U.S. at 629, 89 S.Ct. at 1329. *It would be meaningless to describe the right to travel between states as a fundamental precept of personal liberty and not to acknowledge a correlative constitutional right to travel within a state.*" [Citations omitted.] (Emphasis supplied.) Also see Note, Residence Requirements After *Shapiro v. Thompson*, 70 Colum.L.Rev. 134, 137-139 (1970).

The opposite conclusion reached by the California Supreme Court was based, at least in part, on the misplaced emphasis of this Court's dismissal of *Detroit Police Officers Assn. v. City of Detroit*, 385 Mich. 519, 190 N.W.2d 97, 405 U.S. 950, 92 S.Ct. 1173, 31 L.Ed. 2d 227 for want of a substantial federal ques-

tion. Adopting the questionable rationale in *Ahern v. Murphy*, 457 F.2d 1363 (7th Cir. 1972), Justice Mosk concluded that such dismissal amounted to a decision on the merits.[9] However, *Detroit Police* is not dispositive of the issue here presented for appellants in that case failed to articulate the fundamental right to travel as a basis for asserting the unconstitutionality of the municipal residency requirement there under consideration. See Brief for Appellant, *Detroit Police Officer's Assn. v. City of Detroit*, 405 U.S. 950 (1972). In that case appellants only asserted that ". . . the right to live where a citizen chooses is a fundamental personal liberty that cannot be abridged by a mere showing that a residency ordinance may be reasonably related to a proper city purpose." *Id.*

It is significant that the appellants failed to assert this fundamental constitutional right to travel. The absence of such an issue may well have caused this court to summarily dismiss the appeal since appellants did not bottom their claim upon *Shapiro v. Thompson*, 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600 (1969) and its progeny.[10] In any event, since the issue presented

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[9]We note that the announced interpretation by the Seventh Circuit is subject to question. It has been persuasively held that a dismissal for want of substantial federal question is not dispositive of the issue but only persuasive precedent subject to the dictates of *stare decisis*. See *Two Guys from Harrison—Allentown, Inc. v. McGinley*, 179 F.Supp. 944 (E.D.Pa. 1959), aff'd, 366 U.S. 582, 81 S.Ct. 1135, 6 L.Ed.2d 551 (1961); See also, Note, "The Significance of Dismissals For Want of Substantial Federal Question", 68 Col.L.Rev. 785 (1968); but see *Stern and Gressman*, Supreme Court Practice, 197 (4th Ed. 1969). We need not entertain this issue in the instant petition, however, since, as will be shown below, the specific constitutional issue here raised was not presented in *Detroit Police* and thus such case is not dispositive of the matter here presented.

[10]This contention finds support in Comment, Residency Requirement for Municipal Employees: Denial of Right to Commute, 7 U.S.F.L.Rev. 508, 530-531 (1973).

here was not raised in *Detroit Police*, dismissal of the later case for want of substantial federal question cannot be dispositive of the instant matter. See Note, "The Significance of Dismissal for Want of Substantial Federal Question", 68 Col.L.Rev. 785 (1968).[11]

In view of the foregoing, a determination on the merits of the instant petition is ripe for constitutional adjudication.

D. The Necessity for Resolving Conflicting Decisions by This Court.

The importance and timeliness of the issues here presented have created widespread constitutional litigation throughout this Nation leading to conflicting principles and results. See *e.g., Detroit Police Officers Assn. v. City of Detroit*, 385 Mich. 519, 190 N.W. 2d 97 (1971); See, *e.g., Hattiesburg Firefighters Local 184 v. City of Hattiesburg* (Miss. 1972) 263 So.2d 767; *Williams v. Civil Service Com'n of City of Detroit* (1970) 383 Mich. 507 [176 N.W.2d 593, 596-598]; *Mercadante v. City of Paterson* (1970) 111 N.J.Super. 35 [266 A.2d 611] affd. *per curiam* (1971) 58 N.J. 112 [275 A.2d 440]; *Salt Lake City Fire Fighters Local 1645 v. Salt Lake City* (1969) 22 Utah 2d 115 [449 P.2d 239, 240]; *Marabuto v. Town of Emeryville* (1960) *supra*, 183 Cal.App.2d 406; *Kennedy v. City of Newark* (1959) 29 N.J. 178 [148 A.2d 473, 475-476]; *King v. New Rochelle Municipal Housing Authority*, 442 F.2d 646 (2d Cir. 1971); *Cole v. Housing Authority of City of Newport*, 435 F.2d 807 (1st.

[11]It should also be noted that *Detroit Police* can be distinguished on the ground that it involved a challenge by municipal employees who fell within the classification of emergency personnel. The instant petitioner, a librarian, does not fall within this category.

Cir. 1970); *Ahern v. Murphy*, 457 F.2d 363 (7th Cir. 1972); *Krzewinski v. Kugler*, 338 F.Supp. (D.C.N.J. 1972); *Donnelly v. City of Manchester*, 274 A.2d 789 (N.H. 1971). The conflict, dimensions and far reaching importance of such issues require resolution by the Supreme Court of the United States.

Conclusion.

For the foregoing reasons the instant Petition for Writ of Certiorari should be granted.

December 18, 1973.

Respectfully submitted,

STEPHEN WARREN SOLOMON,
RICHARD A. GROSSMAN,
Attorneys for Petitioner.

APPENDIX A.

Memorandum Opinion.

Superior Court of the State of California, for the County of Los Angeles.

Silas Ector, Petitioner, vs. City of Torrance, et al., Respondents. No. 997 818.

Filed: July 26, 1971.

In this mandate proceeding petitioner seeks the aid of the Court in restoring him to a position as Librarian of the City of Torrance from which post he was discharged after a few years' service because he failed and refused to become a resident of that city in accordance with a charter provision which required all officers and employees of the city to become residents thereof within six months after their employment commenced. His attack is directed to this requirement as an unconstitutional requirement denying him as a nonresident equal protection of the laws and his right to public employment without onerous conditions.

Although the Government Code § 50083 purports to eliminate residence requirements for employment by local entities, this section is not deemed applicable to charter cities whose charters provide for residence, as does the defendant's, City of Torrance. (Art. IX, Sec. 6, Const; *City of Pasadena v. Charleville,* 215 Cal. 384.) Petitioner's claim, then, must stand or fall on his contentions that the charter requirement is constitutionally defective in denying him, a nonresident, equal protection of the laws with residents of the defendant city and his constitutional right to seek public employment (*Purdy,* 71 Cal. 2d 566) and to be continued therein without onerous conditions (*Bagley v.*

Washington, 65 Cal.2d 449). He relies upon certain cases dealt with hereinafter which he contends have dissipated the power of governments to impose residence requirements. No case relied on presents a factual context on all four but the principles derived therefrom are urged to be applicable and decisive herein. Because we find substantial distinctions do, in fact, exist, his position cannot be accepted.

While it cannot be gainsaid that he, like everyone else, has a "right to public employment", this right may be properly qualified by reasonable and appropriate conditions evidencing a "compelling state interest". *Bagley* did hold that the State may impose conditions upon public employment even though a constitutional right may be thus impaired under certain circumstances. Such conditions will not be set aside if (1) the Government bears the burden of demonstrating the practical necessity for the limitation, showing that the conditions relate to the purposes of the legislation which confers the neighbor privilege, (2) the condition must reasonably tend to further the purpose sought by conferment of the benefit, (3) the utility of imposing the condition must outweigh any resulting impairment of any constitutional right, (4) the Government must establish the unavailability of less offensive alternatives, (5) the conditions must be drawn with sufficient specificity. An application of standards 3, 4, 5 in their present consideration with respect to the City of Torrance, or any other city for that matter, presents no problem. (3) Because of the freedom to seek employment, public or private, in any place including the place where petitioner does in fact reside, it must be deemed a de minimis impairment of a constitutional right, if at all, to require residence within the geographical boundaries of the employing

entity as compared to the 100% utility (in imposing the condition of residence)—in accomplishing the purposes of the legislation (to be discussed hereinafter). Petitioner is by no means actually deprived or denied his constitutional right of employment—it was and is his privilege to *accept* employment and then change his place of residence, to accomplish the salutary purpose of the legislation. If employment in the first instance were limited to residents only, the condition would be more suspect and possibly tainted with a constitutional vice of denial of equal protection. (4) As to the unavailability of less offensive alternatives, this condition of residence is manifestly the *only* way the purposes of the legislation can be achieved and the simple requirement of becoming a city resident within a given period after employment satisfies requirement (5).

The (1) and (2) *Bagley* requirements next receive our attention. Counsel for the city admits that the exact reasons which created the condition of residence cannot be accurately pinpointed two decades later but suggests, among other reasons, the following:

(a) to make emergency personnel quickly available when needed;

(b) to create greater concern for, and therefore attention to, the priority of service.

(c) As an incidental benefit, public employees would tend more readily to spend their earnings where they resided—including the payment of local *taxes,* rents, and shopping to the general economic benefit of the community. This would be hardly likely for nonresidents, such as petitioner who resides in Santa Monica and obviously would rush in and out as a commuter with a minimum likelihood of doing any shopping in Tor-

rance or otherwise contributing to the economic growth of the community in the other areas mentioned. As to (a) above, this is not applicable to a librarian such as plaintiff; as to (b), this is too esoteric upon which to make a definitive finding or conclusion herein, since it is highly debatable that a nonresident employee would have less concern (or greater) for the quality of service —that is a purely individual concern in every case.

Inextricably involved in (c) is a sociological thesis urged upon the Court by counsel for the city. Just as the Superior Court in *Brown v. Board of Education*, canvassed sociological trends and took note thereof in overruling *Plessy v. Ferguson's* separate but equal doctrine, it is contended, this Court should take note of the sociological trend of the "flight of the whites" from the cities, including one adjacent to defendant city, as ruinous of the tax base and the economy of the city and, in furtherance of the national policy of integration, we should recognize the necessity and the validity of the residence requirement. The creation of urban shells must be resisted. While ingenuous as an approach to the problem, in the present context it cannot be said with any accuracy whatever that such motivation existed in 1950 when this charter provision was adopted at a time when the present "integration policy" was only aborning. It is not necessary to reach out when (c) above, in itself, is so patently applicable and purposeful with respect to the condition of residence. In this connection the (1) condition of *Bagley* is amply "demonstrated", for purposes of mandate proceedings which are extraordinary in nature, with great discretion in the chancellor.

There appears to be no California case dealing with the simple question here. The absence thereof might

well tend to suggest that it has not been and is not a constitutional problem for it has been repeatedly held that there is a strong presumption of the constitutionality of an act of the "Legislature". *Delaney*, 25 Cal. 2d 561. Hence no challenge has heretofore been reported. Elsewhere, we find in New Jersey (*Kennedy*, 148 A. 2d 743 (1959)) the Court has held the requirement of residence for municipal employees reasonable and rational and that it furthered the public welfare. Minnesota (*Rey v. Minneapolis*, 143 N.W.2d 200) relied on *Kennedy* in holding the requirement not unconstitutional. Utah went along in a firefighter's case (449 P.2d 239) in which the United States Supreme Court denied certiorari (395 U.S. 706).

Petitioner's reliance on *Shapiro*, 394 U.S. 618 (1969), is misplaced. All the Court did in that welfare-residence case was to strike down the one-year durational requirement. It did not hold residence per se would be an unconstitutional requirement and specifically stated it was "implying no view" of requirements in areas which might compel a state interest. For the same reason, petitioner cannot rely on *Zeilenga*, 12 Cal. App.3d 775, and *Lawrence v. Cleveland*, 13 Cal.App. 2d 127, where the courts merely held five-year residence requirements for office candidacy had no compelling state interest justifying such long residence requirements—it was not held that residence per se or even a limited period requirement for eligibility would be stricken down. In support of this latter position, see *Lindsey*, 217 Cal. 533, where the Supreme Court upheld an L.A. Charter provision prescribing two years' residency for eligibility for councilmanic candidates.

It is also urged upon this Court that petitioner's residence was known at all times by the superior city officials who at one time or another indicated to petitioner they would not enforce the residence requirement and in fact waited two years or more before taking action to enforce it. If this is meant to urge some kind of estoppel or waiver against the city, the plain answer is that petitioner can't place himself in an estoppel position because he has not shown any change of position in reliance on the foregoing representations and delay nor can it be successfully argued that any city employee is authorized to waive, by representation or delay, the charter provision. Nor does his argument hold water that 58003 Government Code binds the city because as a general law it is binding on a chartered city if it relates to a matter of statewide concern. The long and short of that contention is that no one outside the city has any concern at all as to who is employed by the defendant. The cases cited by him, *Professional Firefighters v. City of L.A.*, 60 Cal.2d 276, and others, are not applicable herein, dealing in fact with areas of statewide concern and upholding the pre-emption doctrine in those areas where charters conflicted with state general laws. The need for uniformity in residence requirements throughout the state is not shown for the obvious reason that it does not exist.

The need for mobility of the working force from community to community as the need exists is a good economic or sociological argument better addressed to the legislature or the chartered city—comparable to the integration argument of respondent—as an exercise of legislative policy and wisdom rather than to the courts.

While we recognize that there is a trend to eliminate the residence requirement in many entities—and even in the defendant city—nevertheless, this case cannot be decided on the *trend* but must rest upon the constitutionality of the present requirement.

Because we cannot find that this enactment is clearly arbitrary and unreasonable and without relation to the city's public welfare, we cannot and must not declare it to be unconstitutional. (*Euclid v. Ambler*, 272 U.S. 365.)

The application must therefore be denied and the alternative writ discharged. Counsel for respondent will submit findings, conclusions and judgment after serving same.

DATED: July 24, 1971.

/s/ Max Z. Wisot
MAX Z. WISOT
Judge of the Superior Court

APPENDIX B.

Opinion of the Court of Appeal.

In the Court of Appeal of the State of California, Second Appellate District, Division Three.

Silas Ector, Petitioner and Appellant, vs. City of Torrance, etc., et al., Respondents. 2 Civil No. 39769, (Superior Ct. No. 997818).

Filed: Oct. 26, 1972.

APPEAL from a judgment of the Superior Court of Los Angeles County in a proceeding in mandamus. Max Z. Wisot, Judge. Judgment reversed with directions.

Kurlander, Solomon & Hart, Stephen Warren Solomon and Ronald L. Gould for Appellant.

Ralph H. Nutter for Respondents.

THE COURT:

Appellant, Silas Ector, appeals from a judgment denying his petition for a peremptory writ of mandate wherein he sought vacation of respondent City of Torrance's order terminating his employment as a librarian with respondent city and removing him from classified civil service, and reinstatement to his former position with full back compensation.

The undisputed facts set forth in appellant's petition reveal that on or about April 15, 1968, appellant commenced employment as a senior librarian with respondent city. On or about September 30, 1968, appellant was appointed to the position of principal librarian. On March 31, 1969, appellant was appointed permanently in the classified civil service to the position of principal librarian. Appellant served in that capac-

ity continuously thereafter to and including February 19, 1971.

On or about February 19, 1971, appellant was discharged by respondent city from his position as principal librarian and from any and all other employment with respondent city, and he was removed from the classified civil service and denied all benefits incidental thereto, for the sole reason that he was not and did not intend to become a resident of the City of Torrance.

Article VII, section 6, of the Torrance City Charter provides: "All officers and employees of the City of Torrance shall be or become residents of said City within six (6) months after their appointment or date of employment provided, however, that as to appointive officers or employees having technical, special or professional knowledge or abilities, the City Council may waive the residence requirements. No officer or employee may be appointed permanently in the classified service unless and until he has become a resident of the City."

In his petition for writ of mandate appellant alleged that respondents' action in terminating his employment and removing him from classified civil service was in excess of respondent city's jursidction because of the proscription of Government Code section 50083[1] and was in violation of appellant's constitutional rights, specified as follows: "(a) His right to equal protection of the law; (b) His right to freedom of travel; (c)

[1]Section 50083 of the Government Code provides: "No local agency or district shall require that its employees be residents of such local agency or district." Section 50001 of that code is as follows: " 'Local agency' as used in this division means county, city, or city and county, unless the context otherwise requires."

His right to reside in a location of his own choosing; (d) His right to public employment; (e) His inalienable rights as set forth in Article I, Section 1 of the California Constitution; and (f) His privileges and immunities granted to all other citizens, as set forth in the Fourteenth Amendment to the United States Constitution and Article I, Section 21 of the California Constitution."

Portions of the findings of fact of the trial court were as follows: "1. Respondent City of Torrance . . . was and now is a municipal corporation and charter city operating under the laws of the State of California. . . . [¶] 5. At all times herein mentioned petitioner was not a resident of the City of Torrance. [¶] 6. A purpose behind the imposition of the residence requirement was the incidental benefit to respondent City resulting from the fact that public employees, including petitioner would tend more readily to spend their earnings in respondent City if they resided there which expenditures would include the payment of local taxes, rents and shopping, to the general economic benefit of the community, which expenditures would be hardly likely for non-residents. [¶] 7. The incidental benefit referred to hereinabove in paragraph 6 is sufficient to justify the imposition of the residency requirement by respondent City as it serves as a reasonable basis to justify such action."

The conclusions of law of the trial court were as follows: "1. The action of respondent in terminating petitioner's employment and removing him from classification of civil service was not in violation of Section 50083 of the Government Code, which is not applicable to respondent chartered city. [¶] 2. Article VII, Section 6 of the Torrance City Charter is con-

stitutional in accordance with the United States and California Constitutions. [¶] 3. The action of respondent as aforesaid did not violate the constitutional rights of petitioner under the California Constitution and the Constitution of the United States in that: (a) Petitioner was not denied equal protection of the law. (b) Petitioner was not denied freedom to travel. (c) The requirement and restriction of residence for City's municipal employees is reasonable and rational and furthers the public welfare of the City. [¶] 4. Article VII, Section 6 of respondent's charter is not arbitrary, unreasonable and without relation to respondent city's public welfare. [¶] 5. The action of City in terminating Petitioner because of his failure to comply with Article VII, Section 6 did not deny Petitioner privileges and immunities as set forth in the United States and California constitutions. [¶] 6. The conduct of respondents in terminating petitioner was not arbitrary. [¶] 7. The petitioner is not entitled to back compensation. [¶] 8. The action of the respondents in terminating petitioner was not in excess of the jurisdiction and was in accordance with the manner required by law. [¶] 9. Judgment should be entered: (a) Ordering the denial of the Writ of Mandate and the discharge of the alternative writ. (b) Awarding Respondents its costs in this action."

Turning first to the constitutional issue, as will be explained the claim asserted by the appellant rests basically on alleged denials of his right to equal protection and his right to freedom of travel as guaranteed by the Constitution of the United States. The equal protection argument challenges the classification which differentiates between resident and nonresident persons insofar as the continuation of city employment is concerned, while the contention as to the right to freedom of

travel attacks the power of the city to prohibit its employees from residing at a location which is not within the boundaries of the city.

A stringent test with respect to compliance with the Equal Protection Clause of the Fourteenth Amendment is applicable when the differentiation embodied in a challenged enactment adversely affects a fundamental constitutional right. Thus, in the case of *In re Antazo,* 3 Cal.3d 100, at page 110, the Supreme Court stated: "The traditional test has been that the 'distinction drawn by a challenged statute must bear some rational relationship to a legitimate state end and will be set aside as violative of the Equal Protection Clause only if based on reasons totally unrelated to the pursuit of that goal.' (*McDonald v. Board of Election Comrs.* (1969) 394 U.S. 802, 809 [22 L.Ed.2d 739, 745-746, 89 S.Ct. 1404].) But a stricter standard has been prescribed in cases involving 'suspect classifications' or 'fundamental interests.' (*Purdy & Fitzpatrick v. State of California, supra,* 71 Cal.2d at pp. 578-579.)"

In *Purdy & Fitzpatrick v. State of California,* 71 Cal.2d 566, at pages 578-579, it was stated: "Under the Fourteenth Amendment, the state may not condition public employment upon a waiver of constitutional right [fn. omitted] nor may the state create arbitrary classifications for purposes of hiring and firing public employees. [Fn. omitted.] [¶] The concept of the equal protection of the laws compels recognition of the proposition that persons similarly situated with respect to the legitimate purpose of the law receive like treatment. In cases involving 'suspect classifications' [fn. omitted] or 'fundamental interest' [fn. omitted] of those suffering discrimination, the United States Su-

preme Court prescribes a strict standard for reviewing the particular enactment under the equal protection clause. Not only must the classification reasonably relate to the purposes of the law [fn. omitted], but also the state must bear the burden of establishing that the classification constitutes a necessary means of accomplishing a legitimate state interest [fn. omitted], and that the law serves to promote a compelling state interest."

The initial inquiry, therefore, is whether the respondent city must demonstrate a reasonable basis for the classification as to residence or, under the strict standard, a compelling interest in it. With respect to freedom to travel as a basic right under the Constitution, in *Shapiro v. Thompson,* 394 U.S. 618, at page 634, 89 S.Ct. 1322, 22 L.Ed.2d 600, at page 615, the United States Supreme Court stated: "But in moving from State to State or to the District of Columbia appellees [plaintiffs] were exercising a constitutional right, and any classification which serves to penalize the exercise of that right, unless shown to be necessary to promote a *compelling* governmental interest, is unconstitutional." The question of whether a requirement that a municipal employee reside in the municipality penalizes the right of freedom to travel to a substantial degree has been discussed in recent cases.

In *Krzewinski v. Kugler* (D.C.D.N.J. 1972) 338 F.Supp. 492, a three-judge panel was convened pursuant to 28 U.S.C. § 2281 to determine the constitutionality of the New Jersey police and firemen tenure statute which provided in substance that municipal police and firemen were required to maintain residence in the municipality wherein they were respectively employed. In the opinion of the court written by Circuit

Judge Adams it was stated (338 F.Supp. at p. 498): "That the State of New Jersey, by attempting to enforce the residency requirement, would be penalizing the right to travel to a substantial degree is also clear. . . . We find, therefore, that the impact of the challenged statute implicates sharply enough the right to travel to require our application of the compelling state interest test. (See Shapiro v. Thompson, *supra,* 394 U.S. at 629, 634, 638, 89 S.Ct. 1322; Cole v. Housing Auth., *supra,* 435 F.2d at 809-811.)"

While in *Krzewinski* the court found that the residency requirement was valid with respect to policemen and firemen because of the distinctive nature of their respective duties and of their particular relationship to the inhabitants of the municipality, portions of the opinion offer guidance in the resolution of the question presently before this court. Thus, in *Krzewinski* Circuit Judge Adams stated (338 F.Supp. at p. 498): "Certain interests, not seriously asserted here, such as the 'public coffer' theory and the right-privilege dichotomy have been offered in the past to justify a residency requirement for public servants which over the years have lost not only their compelling nature but also their constitutionality.[4]" In footnote 4 the statement just quoted was expanded as follows (338 F.Supp. at pp. 498-499): "The 'public coffer' theory states that the salaries paid to civil servants ought to recirculate within the economy of the municipality that pays those salaries. In this way, municipal funds are preserved for a municipality's own residents. But this theory, as best expressed in People v. Crane, 214 N.Y. 154, 108 N.E. 472, aff'd sub nom. Crane v. New York, 239 U.S. 195, 36 S.Ct. 85, 60 L.Ed. 218 (1915), was sharply rejected by the Supreme Court in Shapiro v. Thompson,

supra. Municipalities may not tie economic benefits in with contributions made to the municipal economy. *Id.* at 632-633, 89 S.Ct. 1322. The public coffer doctrine is merely a natural outgrowth of the once held belief that public employment is not a right, but a privilege, which the state confers in all its beneficence. . . . Any reliance upon these outdated, and apparently unconstitutional theories is disavowed by this Court. Other courts have likewise read *Shapiro* to command such disavowal. Leger v. Sailer, 321 F.Supp. 250 (E.D. Pa. 1970) aff'd sub nom. Graham v. Richardson, *supra* [1971) 403 U.S. 365, 91 S.Ct. 1848, 20 L.Ed.2d 534]; Donnelly v. City of Manchester, 274 A.2d 789 (N.H. 1971)."

In *Donnelly v. City of Manchester* (N.H. 1971) 274 A.2d 789, the plaintiff, employed as a school teacher by the defendant city, sought a declaratory judgment as to the validity of an ordinance of the city which required that all classified employees of the city, including school teachers, be or become residents of the city within twelve months of their employment unless granted a special permit for certain specified reasons. The Supreme Court of New Hampshire held that the ordinance embodied an unconstitutional exercise of governmental power and was to that extent invalid.

In the course of its reasoning the New Hampshire court stated (274 A.2d at pp. 791-792): "The right of every citizen to live where he chooses and to travel freely not only within the state but across its borders is a fundamental right which is guaranteed both by our own and the Federal Constitutions. Ratti v. Hinsdale Raceway, 109 N.H. 270, 249 A.2d 859 (1969); *Shapiro v. Thompson*, 394 U.S. 618, 89 S.Ct. 1322,

22 L.Ed.2d 600 (1969). It is fundamental also that both Constitutions guarantee to all persons the equal protection of the laws, (State v. Pennoyer, 65 N.H. 113, 18 A. 878 (1889)) so that 'all persons should be equally entitled to pursue their happiness * * *.' *Id.* at 115, 18 A. at 880. [¶] There is no question but that the Manchester ordinance places a restriction on a fundamental right of its employees to live where they wish. This being so the ordinance can be upheld only if the requirement that the employees live within the city serves a public interest which is important enough to justify the restriction on the private right. There is nothing in the record before us nor have any reasons been advanced which would justify the broad restrictions of this ordinance. We do not say that there are no employees whose residence near their place of duty may not be important enough to justify a restriction upon their place of residence but if such restrictions are permissible as to some this does not justify the broad and all inclusive requirement that all employees live within the city limits. Nothing has been brought to our attention in the record in this case which would justify the application of the restriction to schoolteachers. . . . [¶] It is true, as contended by the defendant, that there is no constitutional right to work for the city, but this does not mean that the granting of this privilege may be conditioned upon a surrender of a fundamental constitutional right. The old right-privilege distinction is no longer valid, (Shapiro v. Thompson, *supra* note 6; Goldberg v. Kelly, 397 U.S. 254, 90 S.Ct. 1011, 25 L.Ed.2d 287 (1970)), and discrimination against some in public employment can no longer be practiced on the basis that the employment is a privilege which can be withheld from all. Ratti

v. Hinsdale Raceway *supra* (dissenting opinion); Purdy & Fitzpatrick v. State, 71 Cal.2d 566, 79 Cal.Rptr. 77, 456 P.2d 645 (1969). [¶] It has been argued that those who are employed by the city should help support the cost of their employment by contributing to the economy of the city and to its tax base. But employees of the city earn their salaries, and any governmental interest in compelling them to be residents for whatever financial benefit there may be to the city from such residence is slight compared to the important interference with their private rights."

It is true that some courts have held residency requirements for public employees to be valid. Thus, in *Marabuto v. Town of Emeryville,* 183 Cal.App.2d 406, such a requirement was upheld as to policemen and firemen, the court stating at page 410: "Appellants argue that residence can not be a qualification because it has 'no reasonable relation to the ability of an employee to perform the duties . . .' Emeryville has small forces of firemen and police to cope with the hazards due to its concentrated industrial activities. The fire and police chiefs testified that, in emergencies, firemen and policemen could not be relied on for quick response when living at great distances from the city, and it is a matter of common knowledge that in such emergencies even a short delay may be fatal. Residence has generally been treated as a qualification." As held in *Krzewinski v. Kugler, supra,* 338 F.Supp. 492, ordinarily the nature of the duties of policemen and firemen is substantially distinguishable from that of the duties of other city employees and affords a valid basis for a requirement of residence. In the case presently before this court, the question as to the validity of the pertinent provision of the city charter of Torrance as

applied to policemen and firemen is not presented and no determination is made with respect to that matter.

It is to be further noted that earlier cases which upheld residency requirements imposed upon city employees did not consider the matter in the light of the strict standard now prescribed by the United States Supreme Court for the review of an enactment which limits a fundamental right. (See *Purdy & Fitzpatrick v. State of California, supra,* 71 Cal.2d 566, 578-579.) Thus, no determination was made as to whether the municipality had sustained the burden of establishing not only that it had a compelling interest which justified the enactment but that the distinctions drawn by the enactment were necessary to further its purpose.

In the case presently before this court the appellant was employed by the city in the capacity of a librarian. Under the governing standard no justification has been shown for an impingement upon his right of freedom to travel beyond the boundaries of the city for residential purposes.

In view of the determination made as to the constitutional question involved, it is unnecessary to discuss the matter of the legal impact of section 50083 of the Government Code upon the pertinent provision of the charter of the City of Torrance.

The judgment is reversed and the cause is remanded to the superior court for further proceedings not inconsistent with the opinion herein.

CERTIFIED FOR PUBLICATION

APPENDIX C.

Opinion of the Supreme Court of the State of California.

In the Supreme Court of the State of California, In Bank.

Silas Ector, Plaintiff and Appellant, v. City of Torrance, et al., Defendants and Respondents. L.A. 30100, (Super. Ct. No. 997818).

Filed: Oct. 2, 1973.

This is an appeal by a former city employee from a judgment denying his petition for writ of mandate to compel respondent City of Torrance to vacate its order terminating his employment and to reinstate him with full back pay. Appellant contends that the requirement of respondent's charter that its officers and employees reside within its borders contravenes a state statute forbidding such a job qualification (Gov. Code, § 50083) and denies him certain constitutional rights. We conclude that neither of appellant's points is well taken and hence that the judgment must be affirmed.

Respondent City of Torrance is a charter city. Article VII, section 6, of its charter declares that "All officers and employees of the City of Torrance shall be or become residents of said City within six (6) months after their appointment or date of employment provided, however, that as to appointive officers or employees having technical, special or professional knowledge or abilities, the City Council may waive the residence requirements. No officer or employee may be appointed permanently in the classified service unless and until he has become a resident of the City."

In 1968 appellant was employed by respondent as a librarian, and in the following year received an appointment in the city's classified civil service. He never became a resident of Torrance, however, and in 1971 he was discharged for violation of the residence requirement of article VII, section 6.[1] He brought this action in administrative mandamus, challenging the validity of the residence requirement. The trial court upheld the provision and denied relief.

Appellant contends that Government Code section 50083 prohibits respondent from requiring residence as a condition of employment. Section 50083 provides in its entirety that "No local agency or district shall require that its employees be residents of such local agency or district." Appellant relies on section 50001 of the same code, which declares generally that " 'Local agency' as used in this division [*i.e.*, including § 50083] means county, city, or city and county, unless the context otherwise requires." It is urged that respondent is a "city" within the definition of section 50001 and hence is bound by the prohibition of section 50083. As will appear, however, when the legislation is read together with certain governing provisions of the Constitution "the context otherwise requires" a more limited meaning for the term "local agency" in section 50083: *i.e.*, when the agency in question is a city, the section is intended to apply only if it is a general law city rather than a charter city. Respondent, as noted above, is the latter.

To begin with, this not the usual case in which the courts are without constitutional guidance in resolving

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[1]Appellant thereafter found similar employment with the City of Azusa.

the question whether a subject of local regulation is a "municipal affair" and hence within the general home rule power vested in charter cities by subdivision (a) of section 5, article XI, of the Constitution.[2] (See, *e.g.*, Bishop v. City of San Jose (1969) 1 Cal.3d 56, 62, and cases cited.) Here we have the benefit of a specific directive in subdivision (b) of that section, which grants "plenary authority" to charter cities to prescribe in their charters the "qualifications" of their employees.[3] A requirement that a municipal employee reside within the borders of the city that hires and pays him has long been deemed a "qualification" for the employment in question, similar in this regard to minimum standards of age, health, education, experience, or performance in civil service examinations. (Marabuto v. Town of Em-

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[2]The cited provision reads: "It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith."

[3]The cited provision reads: "It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State for: (1) the constitution, regulation, and government of the city police force (2) subgovernment in all or part of a city (3) conduct of city elections and (4) *plenary authority is hereby granted,* subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, *qualifications,* tenure of office and removal of such deputies, clerks and other employees." (Italics added.)

Until the 1970 revision of this portion of the Constitution, similar language appeared in former article XI, section 8½.

eryville (1960) 183 Cal.App.2d 406, 410-411; Galli v. Brown (1952) 110 Cal.App.2d 764, 775; Dierssen v. Civil Service Commission (1941) 43 Cal.App.2d 53, 57; cf. Ball v. Public Welfare Department (1957) 151 Cal.App.2d 784, 788; Denton v. City & County of San Francisco (1953) 119 Cal.App.2d 369, 375.)[4]

It follows that a statute purporting to prohibit charter cities from prescribing municipal employee residence requirements in their charters would contravene that explicit constitutional authorization. We must presume that in adopting section 50083 the Legislature intended to enact a valid statute (In re Kay (1970) 1 Cal.3d 930, 942), and therefore meant to limit its reach to general law cities.

In the present context, moreover, the presumption is confirmed by legislative history. Section 50083 was enacted in the 1970 session. In the immediately following session Assembly Bill 1935 was introduced, proposing to expand section 50083 by declaring that " 'Local agency' for the purpose of this section includes charter cities and charter counties." Obviously aware of the constitutional prohibition against his proposal, the author of this bill simultaneously introduced Assembly Constitutional Amendment 53, which would have added the following exception to subdivision (b) of section 5, article XI (*ante*, fn. 3): "No provision of this article shall limit the power of the Legislature to prohibit charter cities from imposing a residence requirement upon their employees as a qualification for employment."[5]

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[4]The rule was applied more than half a century ago in Hellyer v. Prendergast (N.Y. 1917) 162 N.Y.S. 788, 790.

[5]The amendment would also have added an identical exception to the provision governing charter counties (art. XI, § 4, subd. (f)).

After passing the Assembly in an amended form, Assembly Bill 1935 was further amended in the Senate to exclude from its reach "a charter city and county"—*i.e.*, San Francisco—and "charter cities of over 2,000,000 population"—*i.e.*, Los Angeles. The measure was debated on the floor and narrowly defeated on its third reading by a roll call vote of 13 to 12. (5 Sen. J. (1971 Sess.) pp. 9242, 9247.) We may reasonably infer that by so voting the Legislature rejected the very extension of the statute which appellant now asks us to adopt under the guise of judicial construction. This, of course, we may not do.

Appellant also contends that the residence requirement of respondent's charter is unconstitutional.[6] In Detroit Police Officers Assn. v. City of Detroit (Mich. 1971) 190 N.W.2d 97, a similar municipal employee residence requirement was sustained against a charge that it violated the equal protection clause of the Fourteenth Amendment. An appeal was taken to the United States Supreme Court, but that court ordered the matter "dismissed for want of substantial federal question." (405 U.S. 950.) Shortly thereafter a federal circuit court of appeals held that the dismissal amounted to a decision on the merits by the United States Supreme Court that such a municipal employee residence requirement does not violate any provision of the federal Constitution. (Ahern v. Murphy (7th Cir. 1972) 457 F. 2d 363.) The rule of construction invoked by the *Ahern* court has been recognized in California decisions. (Samson Market Co. v. Alcoholic Bev. etc. Appeals Bd. (1969) 71 Cal.2d 1215, 1221, fn. 4; People v. Supe-

[6]See generally Comment, *Residency Requirements for Municipal Employees: Denial of a Right to Commute?* (1973) 7 U.S.F. Law Rev. 508.

rior Court (1972) 28 Cal.App.3d 600, 619-620.) Applied here, it leads us to reject this attack on the validity of respondent's residence requirement.

We need not, however, rest our conclusion exclusively on the foregoing reasoning. In addition to the *Detroit Police Officers Assn.* case, a number of other decisions have held that a municipal employee residence requirement bears a rational relationship to one or more legitimate state purposes, and hence is constitutional under the traditional equal protection test. (See, *e.g.*, Hattiesburg Firefighters Local 184 v. City of Hattiesburg (Miss. 1972) 263 So.2d 767; Williams v. Civil Service Com'n of City of Detroit (Mich. 1970) 176 N.W.2d 593, 596-598; Mercadante v. City of Paterson (N.J. Super. 1970) 266 A.2d 611, affd. per curiam (1971) 275 A.2d 440; Salt Lake City Fire Fighters Local 1645 v. Salt Lake City (Utah 1969) 449 P.2d 239, 240; Marabuto v. Town of Emeryville (1960) supra, 183 Cal.App.2d 406; Kennedy v. City of Newark (N.J. 1959) 148 A.2d 473, 475-476.)

Among the governmental purposes cited in these decisions or now urged by amici curiae are the promotion of ethnic balance in the community; reduction in high unemployment rates of inner-city minority groups; improvement of relations between such groups and city employees; enhancement of the quality of employee performance by greater personal knowledge of the city's conditions and by a feeling of greater personal stake in the city's progress; diminution of absenteeism and tardiness among municipal personnel; ready availability of trained manpower in emergency situations; and the general economic benefits flowing from local expenditure of employees' salaries. We cannot say that one or more

of these goals is not a legitimate state purpose rationally promoted by the municipal employee residence requirement here in issue.

Appellant contends in the alternative that respondent's residence requirement must be judged by the "strict" equal protection test, *i.e.*, must be shown to be "necessary" to promote a "compelling" governmental interest. To justify invoking the strict standard of scrutiny, appellant proposes a number of "fundamental rights" which he asserts are curtailed by the provision in question.

First it is said that the residence requirement impinges on appellant's "right to travel." The contention is not persuasive. Viewed realistically, appellant is claiming the right to "travel" between his home and his place of employment each morning and evening of each working day—in other words, a "right to commute." We cannot discern such a right in the United States Supreme Court decisions relied on by appellant. Clearly the cultural and educational rewards of international travel (Kent v. Dulles (1958) 357 U.S. 116, 126-127) are not reaped from routine daily trips of a harassed metropolitan commuter. Nor have such trips any relevance whatever to the right to migrate among the several states for the purpose of starting a new life without fear of being denied welfare if a job is not immediately available. (Shapiro v. Thompson (1969) 394 U.S. 618), or to the right to move within the confines of a state for the same purpose without fear of being denied prompt access to public housing facilities (King v. New Rochelle Municipal Housing Authority (2d Cir. 1971) 442 F.2d 646; Cole v. Housing Authority of City of Newport (1st Cir. 1970) 435 F.2d 807). Each of the latter decisions invalidated not a

residence requirement as such but a *durational* residence requirement, *i.e.*, a requirement that the migrant not only be a resident but maintain that status for a certain minimum period of time before he qualifies for benefits.[7] There is no similar "waiting period" in the provision before us, but simply a requirement of residence in the community in order to be a municipal employee. Nothing in *Shapiro* or any of its progeny stands for the proposition that an indigent may demand public assistance without being a bona fide resident of the state or locality to which he has migrated. (See also Dunn v. Blumstein (1972) 405 U.S. 330, 334 [state cannot require unreasonable period of residence as precondition to exercise of right of suffrage, but can require actual residence at time of voting]; Thompson v. Mellon (1973) 9 Cal.3d 96, 106 [same rule governs right to be a candidate for public office].) Indeed, the provision here challenged does not even require immediate residence, but gives each employee six months in which to "become" a resident of respondent city—*i.e.*, the exact converse of a waiting period.[8]

Appellant suggests other fundamental rights said to be affected by respondent's residence requirement. He asserts that it violates his right to "marry, establish a home, and bring up children" because it "limits the

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[7]On almost every page of its lengthy analysis in *Shapiro* (394 U.S. at pp. 627-642) the high court characterizes this precondition as a "waiting-period requirement."

[8]These distinctions were apparently not perceived in the two cases contrary to our conclusion on this point. (Krzewinski v. Kugler (D.N.J. 1972) 338 F.Supp. 492, 497-498; Donnelly v. City of Manchester (N.H. 1971) 274 A.2d 789.)

options" as to the setting—urban or suburban, multiple or single-family dwelling—in which he may choose to accomplish these objectives. He also argues that it impairs his freedom of association because it forces him to live among neighbors "who may be less congenial or less interesting than those in other localities." And he urges that it invades his right of privacy because the choice of where to locate a residence "is a decision about which one has a 'reasonable expectation' of privacy."

Not surprisingly, appellant is able to cite no authority supporting these somewhat esoteric claims. It is self-evident from appellant's proffered justifications that he is stretching his case mightily to bring it within the scope of the named fundamental rights. The critical question whether a legislative act is to be denied the presumption of validity and subjected to strict judicial scrutiny does not turn on the ingenuity of counsel in conceiving remotely possible ways in which the act might affect those rights. Appellant need not necessarily prove he was wholly denied the rights he now invokes, but he must at least show that his exercise of those rights was actually and significantly impaired.

Instead, appellant asks us in effect to declare a fundamental right to be "let alone" in the choice of his place of residence. We are not unsympathetic to that Thoreauvian goal, although we fear that in this day of land-use planning, zoning, and environmental controls, it may be increasingly difficult to achieve. Nevertheless, as Chief Justice Weintraub of New Jersey ex-

plained, in this type of case "The question is not whether a man is free to live where he will. Rather the question is whether he may live where he wishes and at the same time insist upon employment by government." (Kennedy v. City of Newark (N.J. 1959) supra, 148 A.2d 473, 476.) No such "fundamental right" is expressed or implied in the Constitution, and it is not the province of the courts to create substantive constitutional rights in the name of guaranteeing equal protection of the laws. (San Antonio School District v. Rodriguez (1973) 411 U.S. 1, 33.)

Finally, appellant points to the fact that article VII, section 6, of respondent's charter provides in part that "as to appointive officers or employees having technical, special or professional knowledge or abilities, the City Council may waive the residence requirements." The named group, argues appellant, amounts to a "classification according to occupational status," which in turn must be deemed a "suspect classification" requiring application of the strict equal protection test. Again no authority is cited. The cases holding wealth, race, and alienage to be suspect classifications are manifestly distinguishable. In the present record there is neither allegation nor proof that respondent's residence requirement is being used to unlawfully discriminate against the poor or against racial or national minorities. Authorization to make the challenged exception from the residence requirement, if and when necessary, merely reflects the reality that positions calling for specialized personnel are by definition more difficult for a

city to fill than ordinary municipal jobs. Municipal employee residence requirements often contain similar authorizations of waiver for reasons of ill health or severe financial hardship, but none has been held to create "suspect classifications" among the employees affected. The same rule should apply here.

The judgment is affirmed.

Mosk, *J.*

We concur:

Wright, *C. J.*
McComb, *J.*
Tobriner, *J.*
Burke, *J.*
Clark, *J.*

SUPREME COURT, U. S.
FILED
JAN 21 1974

IN THE

Supreme Court of the United States

October Term, 1973
No. 73-952

SILAS ECTOR,

Petitioner,

vs.

CITY OF TORRANCE, a municipal corporation; EDWARD J. FERRARO, City Manager, *et al.*,

Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of the State of California.

BRIEF FOR RESPONDENTS IN OPPOSITION.

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IN THE

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SILAS ECTOR,

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CITY OF TORRANCE, a municipal corporation; EDWARD J. FERRARO, City Manager, *et al.*,

Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of the State of California.

BRIEF FOR RESPONDENTS IN OPPOSITION.

Respondents respectfully request that this Honorable Court deny the Petition for a Writ of Certiorari filed to review the unanimous decision of the Supreme Court of California in the case of *Ector v. City of Torrance, et al.* decided October 2, 1973.

Opinions Below

The judgment and opinion of the Los Angeles Superior Court is unpublished. A copy is appended to the Petition for a Writ of Certiorari herein as Appendix "A". The opinion was delivered on July 26, 1971, Dkt. No. 997818. The opinion of the California Court of Appeal, Second Appellate District, is filed with said

Petition as Appendix "B". It was decided on October 26, 1972 and, although it is not officially reported, an unofficial report of the decision may be found at 104 Cal.Rptr. 594 (1972). The opinion of the California Supreme Court is reported at 10 Cal.3d 129, 109 Cal.Rptr. 849, 514 P.2d 433 (1973). A correct copy thereof is attached to the Petition as Appendix "C".

Jurisdiction

Respondents do not question the jurisdiction of this Court as the same is set forth in the Petition for a Writ of Certiorari herein.

Question Presented

Whether a municipality is barred from requiring its employees to become residents within six months after the date of their employment.

Ordinance

Torrance, California City Charter, Article VII, Section 6:

> "All officers and employees of the City of Torrance shall be or become residents of said City within six (6) months after their appointment or date of employment; provided, however, that as to appointive officers or employees having technical, special or professional knowledge or abilities, the City Council may waive the residence requirements. No officer or employee may be appointed permanently in the classified service unless and until he has become a resident of the City."

Statement of the Case

Petitioner's statement of the case is substantially correct.

REASONS FOR NOT GRANTING THE WRIT.

I.

The Decision of the California Supreme Court in This Case Is Consistent With Every Ruling of This Court Relating to the Issue of the Constitutionality of Employee Residency Requirements.

A. This Court on Two Recent Occasions Has Refused to Overturn Lower Court Decisions Upholding Local Requirements of Employee Residency.

The instant petition marks the third time in the last five years that this Honorable Court has been requested to find that municipal employee residency requirements are unconstitutional, but has declined to do so. Each of the two prior cases, like the one at bar, arose as a petition to reverse a ruling of a State Supreme Court which had found such a requirement constitutional. In each, the argument that the lower court had erred in using the "rational relationship test", rather than the "compelling interest test", was rejected.

Certiorari was denied in *Salt Lake City Firefighters Local 1645 v. Salt Lake City,* 22 Utah 2d 115, 449 P.2d 239, cert. den. 395 U.S. 906, 89 S.Ct. 1748, 23 L.Ed. 220 (1969). There, the Supreme Court of Utah, in a unanimous decision, found it "necessary and proper" for the city to require residency of its employees. Petitioner, the Firefighters Union, sought certiorari on the grounds that the residency requirement deprived them of fundamental rights including equal protection of the laws. The Union, like the Petitioner here, argued that the court below had committed error in using the "reasonable relationship test" rather than the "compelling state interest test" to determine constitutionality. This Court denied their petition for certiorari and thereby upheld the subject requirement.

The second occasion where this Court upheld the constitutional validity of municipal residency requirements was during the 1971-1972 term in the case of *Detroit Police Officers Association v. City of Detroit,* 385 Mich. 519, 190 N.W.2d 97 (1971), affd. 405 U.S. 950, 92 S.Ct. 1173, 31 L.Ed.2d 227 (1972). There, appellant police union made arguments similar to those in *Firefighters, supra,* and Petitioner herein. The United States Supreme Court ordered the appeal dismissed for "want of a substantial Federal question."[1]

B. The Decision of the California Supreme Court Below Is Consistent With United States Supreme Court Cases Cited by Petitioner.

Petitioner cites *Shapiro v. Thompson,* 394 U.S. 618, 89 S.Ct. 1322, 22 L.Ed.2d 600 (1969) and *Dunn v. Blumstein,* 405 U.S. 330, 92 S.Ct. 995, 31 L.Ed.2d 274 (1972), in support of his contention that Respondent City's municipal employee residency requirement is unconstitutional. However, Petitioner misconstrues the holding of these cases. A reading of each of these cases demonstrates not only that the decision involved the constitutionality of residency requirements of a wholly different type than the one at bar, but also that it expressly affirmed the constitutionality of the specific type of requirement now at issue.

Probably most central to Petitioner's cause is *Shapiro v. Thompson, supra.* Petitioner cites it for the proposition that residency requirements inhibit migration and hence are unconstitutional unless supported by some compelling state interest. That case involved a "*dura-*

[1]See also *Town of Vanden Broek v. Reitz,* 406 U.S. 902, 92 S.Ct. 1608, 31 L.Ed.2d 813 (1972).

tional", that is, a "waiting period" requirement. There, District of Columbia law provided that in order to be eligible for welfare benefits an applicant must be a resident for one year prior thereto. The vice of such a waiting period requirement is obvious. Indigents who moved into the District were deprived of welfare benefits until they had been there long enough to satisfy the District's waiting period requirement.

However, a durational requirement as encountered in *Shapiro* is diametrically different from the requirement now at issue. Respondents' employee residency rule does not provide for any waiting period in order to be eligible for municipal employment. One need not even be a resident of this city at the time he is employed. Rather, as Mr. Justice Mosk succinctly pointed out in the California Supreme Court decision, "Indeed, the provision here challenged does not even require immediate residence, but gives each employee six months to 'become' a resident of respondent city—i.e., the exact converse of a waiting period." 10 Cal.3d 129 at 136, 109 Cal.Rptr. 849 at 853, 514 P.2d 433 at 437.

No individual, let alone any suspect class, is discouraged in any way from any migration or travel into the Respondent city. There is no waiting period in order to be eligible for public employment. Instead, the opposite is true. Every employee is given six months to decide whether he wishes to remain in the employment of the Respondent. Should he desire to do so, only then must he move into the city.

It should be noted that *Shapiro* expressly recognized the constitutionality of "factual" residency requirements such as the one at bar. The Court left no

doubt that it is constitutional for a state to require that an applicant for welfare be a resident of a state in order to obtain benefits from it. 394 U.S. at 636, 89 S.Ct. at 1332, 22 L.Ed.2d at 616. Such result is not only reasonable but is compelled by logic. If Petitioner's construction of *Shapiro* were true, and "factual" residency requirements were unconstitutional, a person living in South Carolina could apply for and receive welfare benefits from Connecticut regardless of the fact that he was a resident of South Carolina and had never been to Connecticut—an absurd result.

Dunn v. Blumstein, supra, is not helpful to Petitioner's cause for similar reasons. *Dunn,* like *Shapiro,* involved a "durational" or "waiting period" requirement. There, Tennessee law imposed a requirement that, as a condition precedent to the right of registering to vote, an individual must have continuously resided for one year in the state and three months in the same county. This Court, in a 6-1 decision, held that Tennessee's durational residency requirement was longer than the amount of time necessary to permit the state to complete the administrative tasks needed to prevent fraud. Thus it deprived individuals of their franchise to vote without a compelling state interest.

There is no language in *Dunn* to the effect that the requirement of actual residence in a community is an unconstitutional condition to voting there. To the contrary, it is well established that the opposite is true. As Justice Mosk pointed out, "[A] state cannot require an unreasonable period of residence as a precondition to the exercise of the right of suffrage or candidacy for public office, but it can require actual residence for such at the time of voting." 10 Cal.3d 129 at 136, 109 Cal.Rptr. 849 at 853, 514 P.2d 433 at

437. See also *Thompson v. Mellon,* 9 Cal.3d 96, 107 Cal.Rptr. 20, 507 P.2d 628 (1973).

Petitioner attempts to refute Justice Mosk's distinction between "factual" and "waiting period" requirements by alleging that, be the condition precedent or subsequent, a burden is nonetheless placed upon travel. (Petition, p. 20.) Such an argument is specious. In the case now at bench no social or economic burden is placed on any aspect of travel; no one is picked out for special treatment; there is no discriminatory motive; no one is punished therefor. The City of Torrance only requires that within six months of being hired an employee must become a resident of the community.

C. The Cases Involving Municipal Residency Requirements Have Uniformly Upheld Their Constitutionality.

Despite the arguments in Petitioner's brief, the numerous decisions which have already been rendered relative to municipal employee residency requirements have uniformly upheld their validity. *Detroit Police Officers Assn. v. City of Detroit, supra; Hattiesburg Firefighters Local 184 v. City of Hattiesburg,* 263 So. 2d 767 (Miss. 1972); *Williams v. Civil Service Commission of City of Detroit,* 383 Mich. 507, 176 N.W. 2d 593 (1970); *Mercadante v. City of Paterson,* 111 N.J.Super. 35, 266 A.2d 611 (1970), affd. per curiam 58 N.J. 112, 275 A.2d 440 (1971); *Salt Lake City Fire Fighters Local 1645 v. Salt Lake City, supra; Marabuto v. Town of Emeryville,* 183 Cal.App.2d 406, 6 Cal.Rptr. 690 (1960); *Kennedy v. City of Newark,* 29 N.J. 178, 148 A.2d 473 (1959); and *Ahern v. Murphy,* 457 F.2d 1363 (CCA 7, 1972), all cited by Petitioner, expressly sustained such a requirement

against a constitutional challenge such as that now at bar.

King v. New Rochelle Municipal Housing Authority, 442 F.2d 646 (CCA 2, 1971), and *Cole v. Housing Authority of City of Newport*, 435 F.2d 807 (CCA 1, 1970), on the other hand, have no application to this case. Both of these cases involved "waiting period" requirements (as in *Shapiro* and *Blumstein*) as a qualification for public housing, an issue clearly not relevant here. In *King*, the expansive language was limited by the regulatory context in which the case arose. In *Cole*, on the other hand, the Court did not even discuss the legal issue involved in the intrastate aspect of the case.

Petitioner has also cited *Krzewinski v. Kugler*, 338 F.Supp. 492 (D.C.N.J. 1972), and *Donnelly v. City of Manchester*, 274 A.2d 789 (N.H. 1971) in support of his position. It should be noted that *Krzewinski* upheld a "factual" residency requirement. However, even if both these cases could be construed as supporting Petitioner's position (which they do not), they still exemplify a failure to discern the fundamental distinction between "waiting period" requirements and the "factual" type now at bench. 10 Cal.3d 129 at 136, 109 Cal.Rptr. 849 at 853, 514 P.2d 433 at 437. As Justice Mosk stated: "These distinctions were apparently not perceived in the two cases contrary to our conclusion on this point." Footnote 8: 10 Cal.3d 129 at 136, 109 Cal.Rptr. 849 at 853, 514 P.2d 433 at 437.

A view consistent with the California Supreme Court is that of the Court of Appeal of the State of Michigan expressed in *Park v. Lansing School District*, 32 Mich.

App. 752, 189 N.W.2d 60 (1971), decided two months subsequent to *Donnelly*. In *Park*, persons holding administrative positions in the school district (which operated the City's library system) sued to contest the requirement that all school personnel live within the district. The Court of Appeal held the requirement constitutional, finding that the question of the beneficial effect of employee residence requirements on public services was reasonably debatable.

II.

The Right to Engage in Suburban Travel Is Not a Fundamental Interest Approaching Equal Protection in Municipal Residency Cases.

The contention that battling intrastate traffic (especially in these times of gasoline and energy shortages) is a fundamental interest approaching constitutional dimension or is a right of national citizenship was realistically discussed by Mr. Justice Mosk in the case at bench:

> "First it is said that the residence requirement impinges on appellant's 'right to travel.' The contention is not persuasive. Viewed realistically, appellant is claiming the right to 'travel' between his home and his place of employment each morning and evening of each working day—in other words, a 'right to commute.' We cannot discern such a right in the United States Supreme Court decisions relied on by appellant. Clearly the cultural and educational rewards of international travel (Kent v. Dulles (1958) 357 U.S. 116, 126-127) are not reaped from routine daily trips of a harassed metropolitan commuter. Nor have such trips any relevance whatever to the right to mi-

grate among the several states for the purpose of starting a new life without fear of being denied welfare if a job is not immediately available. (Shapiro v. Thompson (1969) 394 U.S. 618), or to the right to move within the confines of a state for the same purpose without fear of being denied prompt access to public housing facilities (King v. New Rochelle Municipal Housing Authority (2d Cir. 1971) 442 F.2d 646; Cole v. Housing Authority of City of Newport (1st Cir. 1970) 435 F. 2d 807)." 10 Cal.3d 129 at 135, 109 Cal.Rptr. 849 at 852, 514 P.2d 433 at 436.

III.

The Enactment of an Employee Residency Requirement Constitutes a Valid Exercise of Municipal Respondent's Police Power and General Home Rule Power as Granted to It by the California Constitution.

Torrance's residency requirement was enacted for far more significant reasons than, as Petitioner contends, to protect the public purse. (Petition, p. 20.) Nowhere in the findings of any court is such rationale postulated as the sole justification therefor. In fact, as Petitioner admits at page 5 of his petition, the trial court ruled that the "requirement and restrictions of residence for City's municipal employees is reasonable and rational and furthers the public welfare of the City."

This important facet of the case was argued in considerable detail before the California Supreme Court not only by Respondents, but by the *amici curiae* cities of San Francisco, Oakland and Los Angeles. All argued that the imposition of an employee residency re-

quirement as a qualification for employment was essential, *inter alia,* to preserve the socio-economic integrity of our inner cities, foster the quality of government, reduce personnel problems and enable local government to respond to emergency situations.

The California Supreme Court recognized these purposes when it stated:

> "Among the governmental purposes cited in these decisions or now urged by amici curiae are the promotion of ethnic balance in the community; reduction in high unemployment rates of inner-city minority groups; improvement of relations between such groups and city employees; enhancement of the quality of employee performance by greater personal knowledge of the city's conditions and by a feeling of greater personal stake in the city's progress; diminution of absenteeism and tardiness among municipal personnel; ready availability of trained manpower in emergency situations; and the general economic benefits flowing from local expenditure of employees' salaries. We cannot say that one or more of these goals is not a legitimate state purpose rationally promoted by the municipal employee residence requirement here in issue." 10 Cal.3d 129 at 135, 109 Cal.Rptr. 849 at 852, 514 P.2d 433 at 436.

The philosphy of the California Supreme Court was expressed in the opinion of the New Jersey Federal District Court in *Krzewinski, supra.* To paraphrase the Court in *Krzewinski:* reasonable men could conclude that a total disengagement between work hours and personal life could detrimentally affect an employee's attitude toward the community and the people he or

she serves. If, with each nocturnal escape, the employee manages to leave city problems behind, it may be just a matter of time before the employee develops an unconscious disdain for the city and its residents. 338 F.Supp. at 499.

In light of such rationale, the residency requirement as a condition of employment is not only a valid exercise of the City of Torrance's police power, but as a qualification of employment it is expressly authorized by the general home rule provision of the California Constitution, Article V, Section 3(b). As the California Supreme Court stated:

> "To begin with, this is not the usual case in which the courts are without constitutional guidance in resolving the question whether a subject of local regulation is a 'municipal affair' and hence within the general home rule power vested in charter cities by subdivision (a) of section 5, article XI, of the Constitution.[2] (See, *e.g.*, Bishop v. City of San Jose (1969) 1 Cal.3d 56, 62, and cases cited.) Here we have the benefit of a specific directive in subdivision (b) of that section, which grants 'plenary authority' to charter cites to prescribe in their charters the 'qualifications' of their employees.[3] A requirement that a

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[2]The cited provision reads:

"It shall be competent in any city charter to provide that the city governed thereunder may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. City charters adopted pursuant to this Constitution shall supersede any existing charter, and with respect to municipal affairs shall supersede all laws inconsistent therewith."

[3]The cited provision reads:

"It shall be competent in all city charters to provide, in addition to those provisions allowable by this Constitution,

municipal employee reside within the borders of the city that hires and pays him has long been deemed a 'qualification' for the employment in question, similar in this regard to minimum standards of age, health, education, experience, or performance in civil service examinations. (Marabuto v. Town of Emeryville (1960) 183 Cal.App.2d 406, 410-411; Galli v. Brown (1952) 110 Cal. App.2d 764, 775; Dierssen v. Civil Service Commission (1941) 43 Cal.App.2d 53, 57; cf. Ball v. Public Welfare Department (1957) 151 Cal.App. 2d 784, 788; Denton v. City & County of San Francisco (1953) 119 Cal.App.2d 369, 375.)[4]

It follows that a statute purporting to prohibit charter cities from prescribing municipal employee residence requirements in their charters would contravene that explicit constitutional authorization." 10 Cal.3d 129 at 132-133, 109 Cal.Rptr. 849 at 840-851, 514 P.2d 434-435.

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and by the laws of the State for: (1) the constitution, regulation, and government of the city police force (2) subgovernment in all or part of a city (3) conduct of city elections and (4) *plenary authority is hereby granted,* subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several municipal officers and employees whose compensation is paid by the city shall be elected or appointed, and for their removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, *qualifications,* tenure of office and removal of such deputies, clerks and other employees." (Italics added.)

Until the 1970 revision of this portion of the Constitution, similar language appeared in former article XI, section 8½.

[4]The rule was applied more than half a century ago in Hellyer v. Prendergast (N.Y. 1917) 162 N.Y.S. 788, 790.

Conclusion

For the foregoing reasons the Petition for a Writ of Certiorari should be denied.

January 18, 1974.

Respectfully submitted,

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Attorneys for Respondents

JAN 28 IN THE COURT, U. S.

Supreme Court of the United States

October Term, 1973
No. 73-952

SILAS ECTOR,

Petitioner,

vs.

CITY OF TORRANCE, a Municipal Corporation; EDWARD J. FERRARO, City Manager, *et al.*

On Petition for Writ of Certiorari to the Supreme Court of California.

Motion of American Civil Liberties Union of Southern California for Leave to File Brief Amicus Curiae in Support of Petition for Writ of Certiorari; and Brief.

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CITY OF TORRANCE, a Municipal Corporation; EDWARD J. FERRARO, City Manager, *et al.*

On Petition for Writ of Certiorari to the Supreme Court of California.

Motion of American Civil Liberties Union of Southern California for Leave to File Brief Amicus Curiae.*

The American Civil Liberties Union of Southern California (ACLU) is a nonprofit organization devoted to the defense of civil liberties secured by the Constitutions of the State of California and the United States. Its interest in filing this brief is prompted by the belief that the Constitution prohibits classifications which inhibit the fundamental right to travel, at issue in this case.

The ACLU opposes restrictions on the right to travel not required by compelling state interests which

*Petitioner has consented to the filing of this brief. Respondents have declined to do so.

cannot be effectuated by less intrusive means. We believe that the restrictions involved in this case, and the results of the decision of the California Supreme Court impermissibly curtail the fundamental freedom of movement of Americans.

In order to present these views in constitutional terms, we move for leave to file the attached brief.

Respectfully submitted,

FRED OKRAND,
Attorney for Movant.

JOHN D. O'LOUGHLIN,
JILL JAKES,
Of Counsel.

IN THE

Supreme Court of the United States

October Term, 1973
No. 73-952

SILAS ECTOR,

Petitioner,

vs.

CITY OF TORRANCE, a Municipal Corporation; EDWARD J. FERRARO, City Manager, *et al.*

Brief Amicus Curiae of American Civil Liberties Union of Southern California.

Interest of Amicus.

The interest of amicus is set out in the motion for leave to file, *supra.*

Statement of the Case.

Petitioner commenced employment with the City of Torrance as Senior Librarian on or about April 15, 1968. He was subsequently appointed permanently to the position of Principal Librarian in the Classified Civil Service of the City of Torrance. [C.T. 2, lines 2-10; 22, line 25.]

The fact that petitioner was, on or about February 19, 1971, discharged and dismissed from his position and denied all benefits incident thereto, for the sole and exclusive reason that he was not and did not intend to become a resident of the City of Torrance, as required by Article VII, § 6 of the Torrance City

Charter, is not controverted by respondents. Section 6 of the Torrance City Charter provides:

> All officers and employees of the City of Torrance shall be or become residents of said City within six (6) months after their appointment or date of employment provided, however, that as to appointive officers or employees having technical, special or professional knowledge or abilities, the City Council may waive the residence requirements. No officer or employee may be appointed permanently in the classified service unless and until he has become a resident of the City.

Petitioner sought a writ of mandate from the Superior Court of the State of California for the County of Los Angeles, commanding respondents to vacate the order of discharge and reinstate petitioner with back pay, on the grounds that the City Charter infringed petitioner's rights to equal protection of the law, freedom to travel, and freedom to reside in a loation of his own choosing.

On July 26, 1971, after a hearing, the peremptory writ was denied, the alternative writ discharged, and judgment rendered in favor of respondents.

Petitioner appealed the judgment to the California Court of Appeal, Second Appellate District, which, on October 22, 1972, reversed the judgment of the Superior Court.

Respondents' petition for hearing in the California Supreme Court was granted and that court, in a decision published at 10 Cal.3d 129, October 2, 1973, vacated the decision of the Court of Appeal and affirmed the judgment of the Superior Court on the

grounds that the Torrance City Charter (1) violated no provision of the California Constitution, (2) did not violate petitioner's right to travel, and thus must be evaluated under the traditional rather than the strict scrutiny equal protection of the laws test, and (3) did not violate petitioner's right to equal protection of the laws guaranteed by the Fourteenth Amendment.

Scope of This Brief.

This brief is addressed to two questions:[1] (1) whether a nonemergency city employee's fundamental right to travel is curtailed by a Charter provision of his employer city requiring residence in the city as a condition of employment; (2) whether it is proper to determine the justification for a classification challenged on equal protection grounds on the basis of state interests not related to the classification.

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[1]Because of the fundamental importance of the basic question, amicus does not discuss that part of the provision which appears to give uncontrolled discretion to the City Council to waive the residency requirement as to those employees "having technical, special or professional knowledge or abilities."

REASONS FOR GRANTING THE WRIT.

The Importance of the Questions Presented by the Petition.

In addition to the fundamental misinterpretation by the California Supreme Court of the right to travel and its erroneous method of balancing personal rights and state interests, discussed below, which amicus believes are the most urgent reasons for the granting of the writ, amicus would note two additional reasons why the writ should be granted:

1. The first is the tremendous practical effect on the lives and the freedom of movement of Americans. Petitioner's petition for writ of certiorari at pages 12-13 amply demonstrates the "macro" significance of the problem created by the widespread use of ordinances similar to the Charter provision involved herein. Amicus contends that a showing of the "micro" effect on a particular area such as Southern California makes clear the impact on the individual. Attached as Appendix A is a map of Los Angeles County and a list of the incorporated and unincorporated communities therein. The incorporated cities range from the City of Industry, an industrial tax haven ghetto, with a minimum of residents, to residential havens such as Beverly Hills.

As the map indicates, a great number of the smaller incorporated areas are surrounded by the sprawl of the City of Los Angeles. It is doubtful that the lower-paid city employees of Beverly Hills could afford to be residents, or that anyone would want to live in the City of Industry. At any rate, amicus contends that it would be absurd to suggest, much less require, that each incorporated city be a self-contained community. To re-

quire the segregation of municipal employees into various gerrymandered ghettoes is patently unreasonable and unfair.

2. There is conflict between various state and federal courts on the question.

The decision of the California Supreme Court in this case, and those cases on which the California court relied (10 Cal.3d at 134), is in direct conflict with such cases as *Krzwinski v. Kugler* (D. N.J. 1972), 338 F.Supp. 492, 497-8; *Donnelly v. City of Manchester* (1971), 111 N.H. 50, 274 A.2d 789; and *Alaska v. Wylie,* ..... Alaska ...., November 23, 1973, 42 U.S. Law Week 2307. This conflict, on the issue of the fundamental rights involved in this case, with its pervasive and immediate effect on the lives and freedoms of the people, requires resolution by this Court.

3. Most importantly, the decision of the California Supreme Court in this case is in fundamental conflict with the holdings of this Court in *Shapiro v. Thompson* (1969), 394 U.S. 618, 22 L.Ed.2d 600, 89 S.Ct. 1322.

The California Supreme Court has held that the "right to travel" found to be fundamental in *Shapiro, supra,* is not involved in this case; that it deals with the "right to commute" or the right to live where one chooses.

> Instead, appellant asks in effect to declare a fundamental right to be let alone in the choice of his place of residence. We are not unsympathetic to that Thoreauvian goal, although we fear in this day of land use planning, zoning and environmental controls it may be increasingly difficult to achieve.
>
> Calif. Supr. Ct., 10 Cal.3d 129 at 136-7.

Amicus fears that Justice Mosk's "fear" is well founded if by his statement he means that the State may create residential zoning classifications based on the resident's employer. Commercial, industrial and residential uses are now augmented by civil servant/residential and technical-professional-civil servant/residential uses. The import of this holding is that this sort of regimentation could progress to control *all but traditional suspect classifications* (*e.g.*, race, sex, etc.), beginning with old folks' reservations in "hospital zones," and ending with separate dorms for Alphas and Betas as in Huxley's Brave New World. In other words, the California Supreme Court decision, by refusing to recognize the fundamental right of travel, sanctions a mechanism capable of creating new ghettoes and suspect classifications.[2]

The decision of the Court below denigrates the rights asserted here with the label "The right to commute."

> "Clearly the cultural and educational rewards of international travel (Kent v. Dulles (1958) 357 US 116, 126-127 [2 L Ed 2d 1294, 1201-1211, 78 S Ct. 1113]) are not reaped from the routine daily trips of the harassed metropolitan commuter." (10 Cal.3d at 135.)

Amicus contends that the superiority of the value of international travel over intraurban travel is not so

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[2]The Los Angeles Times of January 18, 1973 reports the decision of the District Court for the Northern District of California in the case of *Construction Industries v. City of Petaluma,* No. C-73-663-LHB to the effect that a city may not exclude new residents, albeit in a nondiscriminatory way, as this would violate the right to travel. This demonstrates the principle we urge here: That without a right to live where one chooses the right to travel to effectuate that choice is meaningless. Whether purported restrictions require or probibit residence is, of course, irrelevant to the central issue.

clear. The value of travel to the individual choosing to do so is not limited by his limited means. To hold that international travel may not be restricted while intra-urban travel may, seems at best anomalous.

The problem lies in the Court's failure to analyze the values implicit in the fundamental "right to travel." While there may be a certain thrill to be found in the mere phenomenon of motion, this is not the fundamental value of travel protected in such cases as *Kent v. Dulles* (1958), 357 U.S. 116, 2 L.Ed.2d 1204, 78 S.Ct. 113, or *Shapiro v. Thompson, supra.* Thus the values of parachutists, skiers, or race car drivers are not protected by the right to travel. While "getting there" may be "half the fun," travel in itself is generally incidental to the primary purpose of effectuating one's choice of where one wishes to be. This is particularly evident in cases like *Shapiro* and *King v. New Rochelle Municipal Housing Authority* (2d Cir. 1971), 442 F.2d 646. It may be assumed that the welfare recipients and public housing tenants were not travelling in style, that their primary purpose in asserting their right to travel was to assert their right to choose their residence. It should be evident that neither the length nor the frequency of the trips are determinative of the value of their purpose. The interest of petitioner is identical with that of petitioners in *Shapiro* and *King.* The effect of the charter provision in the present case is the same as that in *Shapiro* and *King:* petitioner's right to travel is abridged. It remains to be seen whether such infringement is justified.

Preliminarily, we must dispose of the distinction asserted by the California Court that the instant case differs from *Shapiro, King* and the Voting Cases, in that the Charter provision in this case does not require

durational residence while the overturned provisions of the latter cases did require *durational* residence. Perhaps the easiest way to dispose of this argument is to note its total irrelevancy to the outcome of the case. Counsel for petitioner have called this Court's attention to the existence of civil servant residence laws which *do* contain durational requirements![3] Under the reasoning of the California Court, they would fare no differently from the Torrance provision: in the view of that Court, since there is no fundamental right, no strict scrutiny is required.

Thus, almost any run-of-the-mill justification would constitutionalize a durational provision. Among the reasons offered by the California Supreme Court decision as justifying Torrance's nondurational residence requirement (10 Cal.3d 129 at 135) is greater personal knowledge of the city, conditions which would similarly support a *durational* requirement such as San Francisco's[4] under the "traditional" equal protection test. Under the doctrine of *Shelton v. Tucker,* 364 U.S. 479, 81 S.Ct. 247, 5 L.Ed.2d 231 (1960), that compelling state interests must be satisfied by means least intrusive on fundamental rights, they obviously would not stand.

Thus, the California Court's parade of absurdities—nonresident welfare and voting—is superfluous to the issue in the instant case. Obviously there are compelling reasons why the vote and the dole should be denied nonresidents—reasons which have to do with the nature of the interests served by the vote and the dole. This does not, however, mean that because these func-

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[3]Petition for Writ of Certiorari, p. 12, fn. 4.

[4]See fn. 3, *supra.*

tions, which give rise to *distinct* compelling state interests, require residence, that all benefits, facilities, or opportunities offered by a city require residence. The compelling interest requiring residence for voting does not justify a residence requirement for receipt of welfare. That they happen to justify what *seems* to be a common restriction is mere happenstance. This is factually as well as analytically demonstrable: While the state interests generated by its administration of welfare require *no* durational requirements (*Shapiro*), the interest generated by the administration of the franchise does require or justify *some minimal* durational requirements. *Dunn v. Blumstein* (1972) 405 U.S. 330, 334, 31 L.Ed.2d 274, 279, 92 S.Ct. 995. Thus, it is painfully apparent that, while welfare and voting both may require actual residence, the interests of the city as an employer are entirely distinct and *may or may not* justify an actual residence requirement. By way of analogy: If it were found that city employment, like welfare, franchise and school administration did require residence, this in turn would not justify a city's denying out-of-towners the use of a municipal bus service or the city's streets.

The City Has No Compelling Interest Justifying the Requirement That Nonemergency Employees Be Residents.

Amicus feels that the rubrics of strict scrutiny are sufficiently familiar to obviate the need for a review of the development and theory of the law, and relying on the guidelines of *Shapiro, supra,* and *Shelton, supra,* will go on to examine the interests offered by the California Supreme Court (10 Cal.3d at 135) as possible justifications of respondents' residence ordinance.

The second and seventh reasons proffered by the California Supreme Court decision, reduction of inner city unemployment and the economic benefit derived by the city from city employee residence are almost identical with rationales rejected in *Shapiro*.

"Promotion of ethnic balance" is patently absurd as a rationale for *Torrance's* ordinance, Torrance being a near "lily white" suburb of Los Angeles. In the 1970 Census Torrance had a population of 134,584 of whom 199 were black and 6,304 had Spanish as a mother tongue.

Thus, not only would a city employee residence provision be fatally overbroad, but counter-productive to the purpose asserted: it would tend to lock people into presently segregated residential patterns.

"Improvement of relationships between civil servants and minorities," is in the case of Torrance, totally irrelevant, and thus its supposed implementation overbroad. See above. Note that the discussion above of distinct compelling interests of welfare and voting with regard to what restrictions they justify applies here also: The fact that, for instance, New York, may have an inner city minority unemployment problem does not justify Torrance's (which doesn't) restriction. It is axiomatic that under Article III this Court adjudicates cases and controversies, not hypotheses.

With regard to absenteeism and tardiness and emergency manpower (which, incidentally, does not figure in this case, petitioner being a librarian), a look at a map of the County of Los Angeles (Appendix A) reveals that many persons living outside the City of Los Angeles (which has an ordinance similar to that of Torrance) live much closer to City Hall than many

people living in the city itself. The ordinance is thus underinclusive. See *Skinner v. Oklahoma* (1942) 316 U.S. 535, 62 S.Ct. 1110, 86 L.Ed. 1655, and with regard to emergency manpower, overinclusive (*Shelton, supra.*)

The last purported rationales are that of having city employees with increased knowledge of and "stake" in the city. The first could be better and less obtrusively achieved by education and orientation. The latter is wholly speculative.

It should be noted that the California Supreme Court decision, resting on the "traditional" equal protection test, does not actually endorse any of these asserted rationales. It makes no attempt to analyze their validity. At minimum certiorari should be granted for the purpose of vacating the decision to remand the case to the Court below to properly weigh the state interests involved.

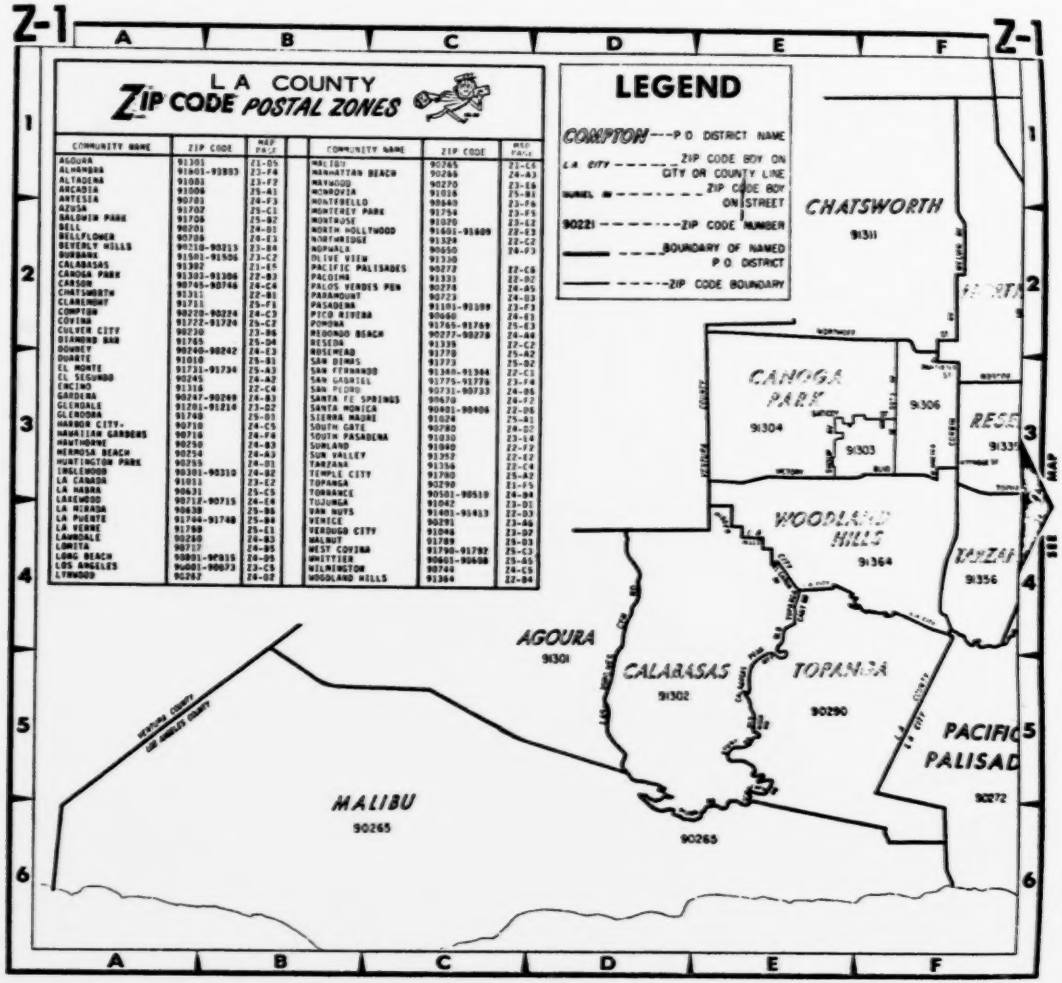
Conclusion.

The Petition for Writ of Certiorari should be granted.

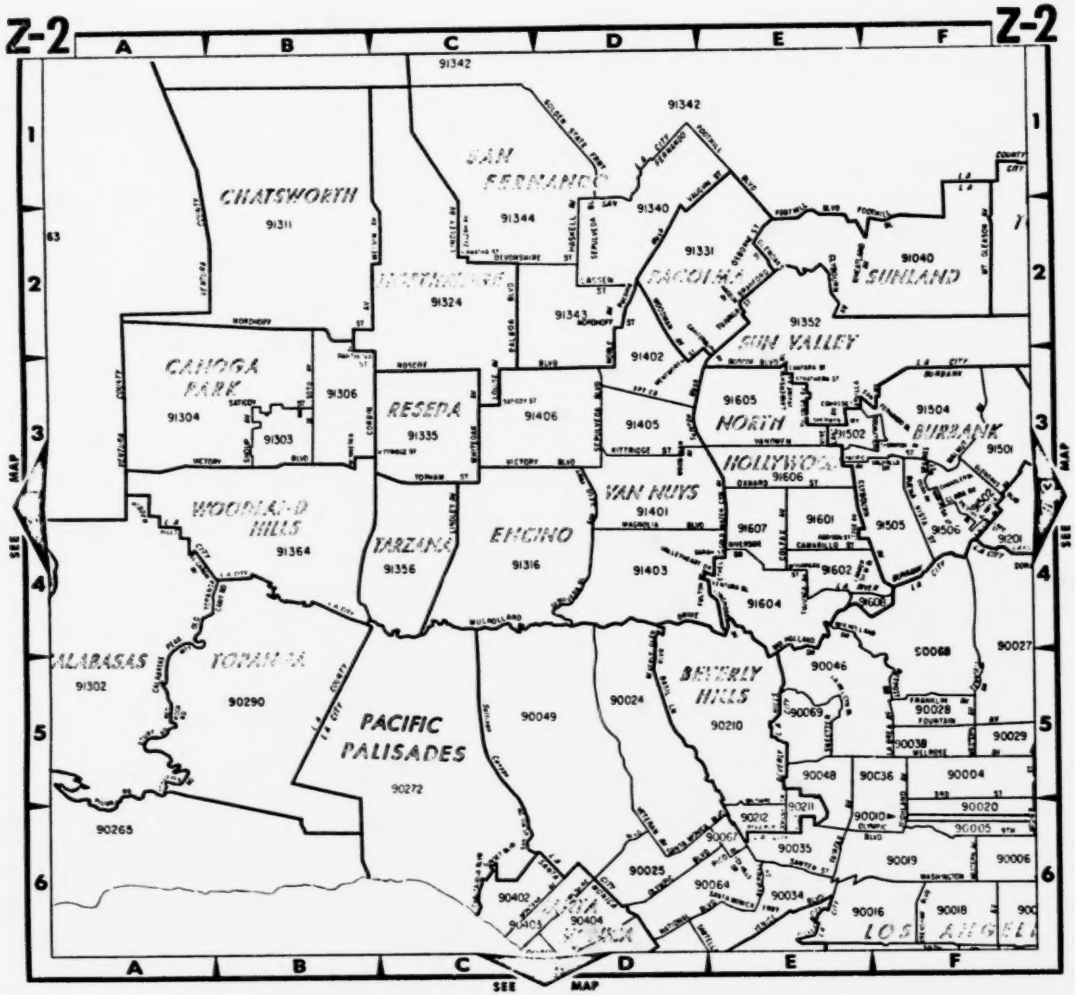
Respectfully submitted,

FRED OKRAND,
Attorney for Amicus Curiae.

JOHN D. O'LOUGHLIN,
JILL JAKES,
Of Counsel.



COMMUNITY NAME	ZIP CODE	MAP PAGE
AGOURA	91301	21-D5
ALHAMBRA	91801-91803	23-F6
ALTADENA	91001	23-F2
ARCADIA	91006	25-A1
ARTESIA	90701	24-F3
AZUSA	91702	25-C1
BALDWIN PARK	91706	25-B2
BELL	90201	24-D1
BELLFLOWER	90706	24-E3
BEVERLY HILLS	90210-90213	23-B4
BURBANK	91501-91506	23-C2
CALABASAS	91302	21-A5
CANOGA PARK	91303-91306	22-B3
CARSON	90745-90746	24-C4
CHATSWORTH	91311	22-A1
CLAREMONT	91711	25-F1
COMPTON	90220-90224	24-C3
COVINA	91722-91724	25-C2
CULVER CITY	90230	23-B6
DIAMOND BAR	91765	25-D4
DOWNEY	90240-90242	24-E3
DUARTE	91010	25-B1
EL MONTE	91731-91734	25-A3
EL SEGUNDO	90245	24-A2
ENCINO	91316	22-C4
GARDENA	90247-90249	24-B3
GLENDALE	91201-91214	23-D2
GLENDORA	91740	25-D1
HARBOR CITY-HAWAIIAN GARDENS	90710	24-C5
HAWTHORNE	90716	24-F4
HERMOSA BEACH	90250	24-B3
HUNTINGTON PARK	90254	24-A3
INDUSTRY	91793	24-D1
INGLEWOOD	90301-90310	24-B2
LA CANADA	91011	23-E2
LA HABRA	90631	25-C5
LAKEWOOD	90712-90715	24-E4
LA MIRADA	90638	25-B6
LA PUENTE	91744-91748	25-B4
LA VERNE	91750	25-E1
LAWNDALE	90260	24-B3
LOMITA	90717	24-B5
LONG BEACH	90801-90815	25-A5
LOS ANGELES	90001-90073	23-C5
LYNWOOD	90262	24-D2
MALIBU	90265	21-C5
MANHATTAN BEACH	90266	24-A3
MAYWOOD	90270	23-E6
MONROVIA	91016	25-B1
MONTEBELLO	90640	23-F6
MONTEREY PARK	91754	23-F5
MONTROSE	91020	23-E2
NORTH HOLLYWOOD	91601-91609	22-E3
NORTHRIDGE	91328	22-C2
NORWALK	90650	24-F3
OLIVE VIEW	91330	
PACIFIC PALISADES	90272	22-C6
PALOMA	91331	22-D2
PALOS VERDES PEN	90274	24-A5
PARAMOUNT	90723	24-D3
PASADENA	91101-91109	23-F3
PICO RIVERA	90660	24-E3
POMONA	91765-91769	25-E3
REDONDO BEACH	90277-90278	24-A4
RESEDA	91335	22-C2
ROSEMEAD	91770	25-A2
SAN DIMAS	91773	25-D2
SAN FERNANDO	91340-91344	22-C3
SAN GABRIEL	91775-91778	23-F4
SAN PEDRO	90731-90733	24-D5
SANTA FE SPRINGS	90670	24-F2
SANTA MONICA	90401-90406	23-D6
SIERRA MADRE	91024	25-A1
SOUTH GATE	90280	24-D2
SOUTH PASADENA	91030	23-E4
SUNLAND	91040	22-F2
SUN VALLEY	91352	22-E2
TARZANA	91356	22-C4
TEMPLE CITY	91780	25-A2
TOPANGA	90290	21-F5
TORRANCE	90501-90510	24-B4
TUJUNGA	91042	23-D1
VAN NUYS	91401-91413	22-D3
VENICE	90291	23-A6
VERDUGO CITY	91046	23-D2
WALNUT	91789	25-D3
WEST COVINA	91790-91792	25-C3
WHITTIER	90601-90608	25-A5
WILMINGTON	90744	24-C5
WOODLAND HILLS	91364	22-B4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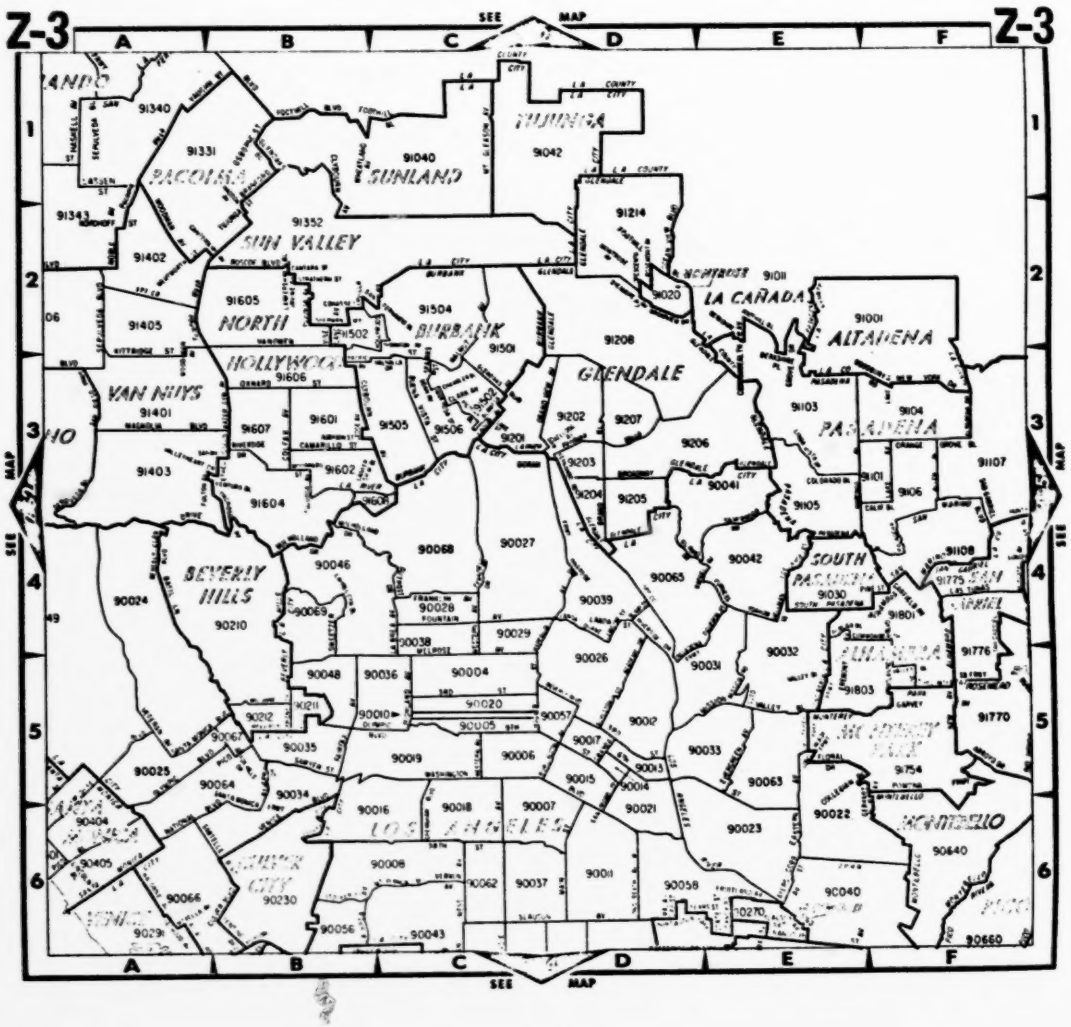
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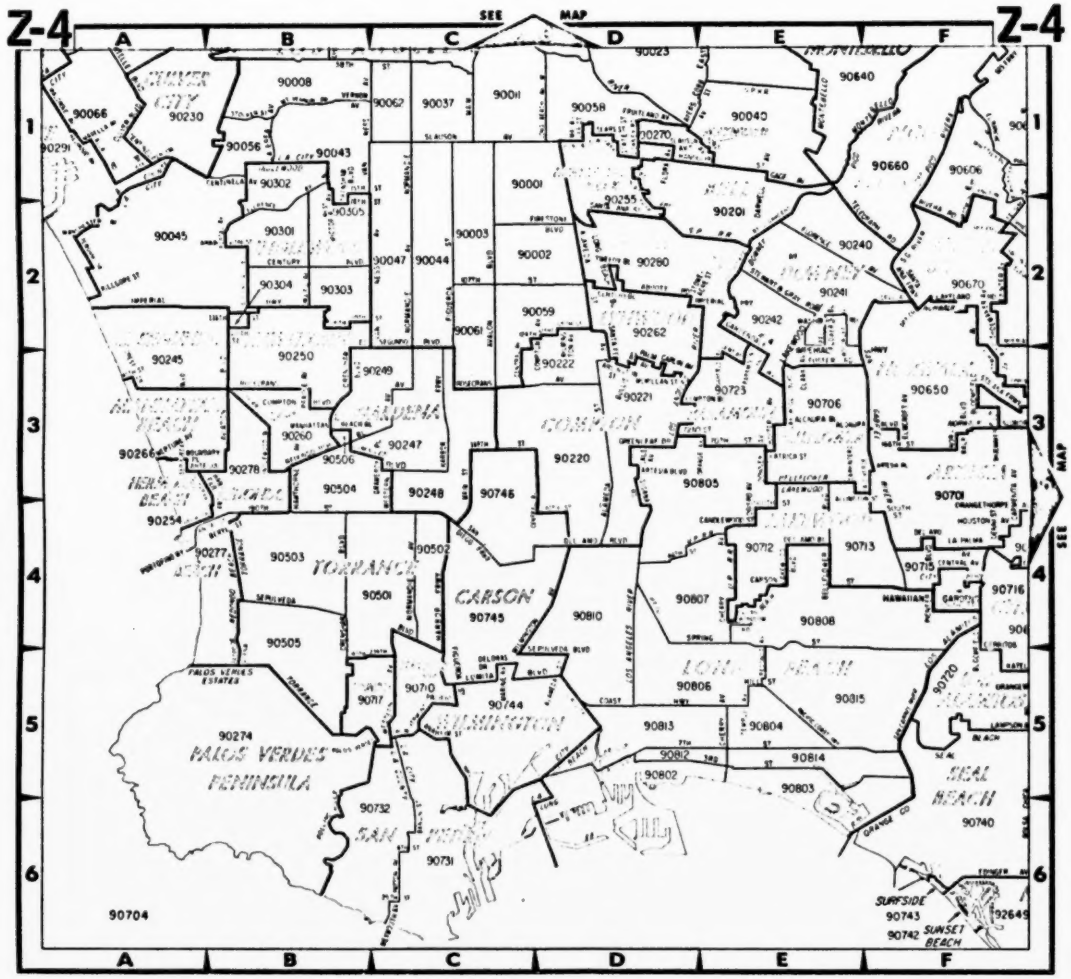
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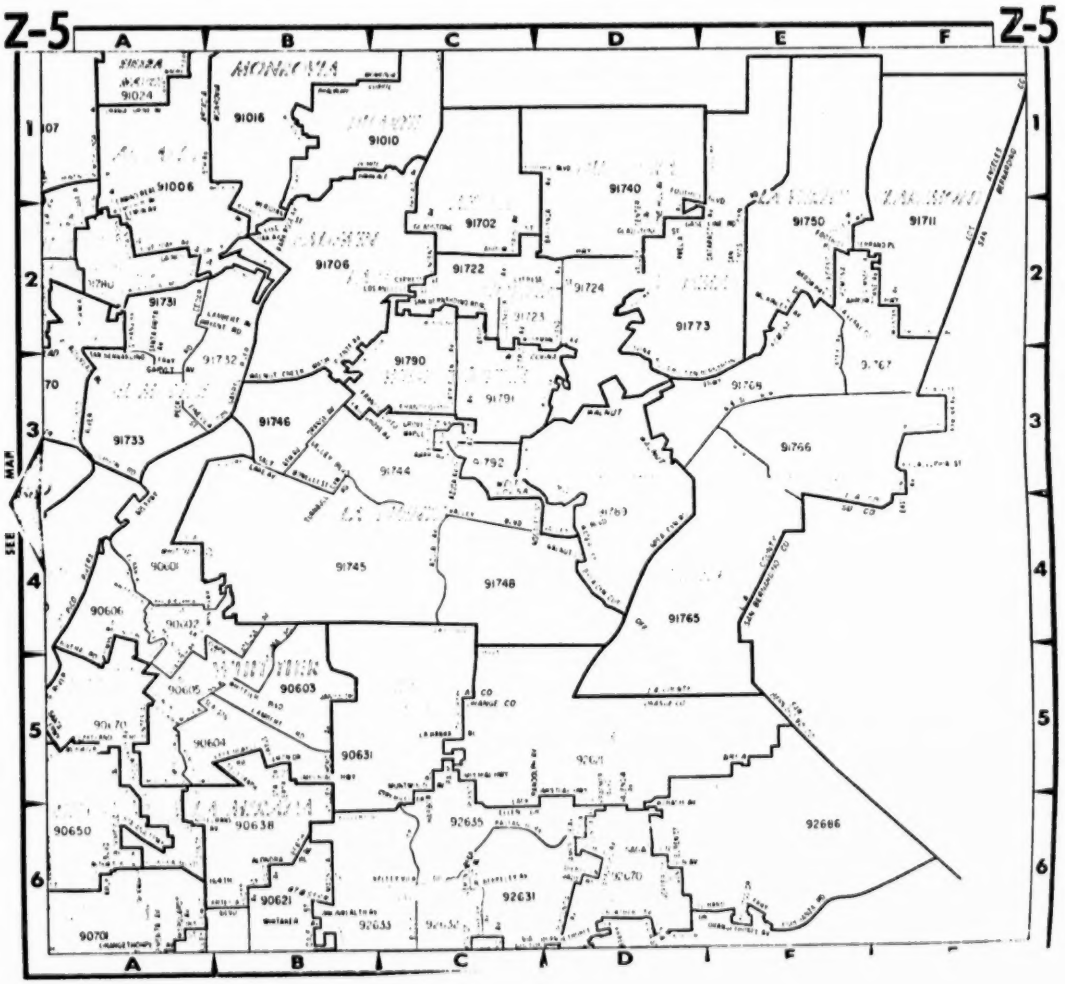
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CITIES & COMMUNITIES INDEX

COMMUNITY NAME	ABBR	POST OFFICE	P.O. ABBR	EST. SQ. MILES	EST. POP	MI. FROM L.A.	MAP PAGE
PALMS		LOS ANGELES 34	LA			10.7	62
*PALOS VERDES EST	PVE	PALOS VERDES PEN	PVP	4.767	13,870	27.4	72
PANORAMA CITY		SAN NUYS	VAN			18.1	8
PARADISE		VALYERMO	VAL			58.5	1
*PARAMOUNT	PAR	PARAMOUNT	PAR	4.960	36,105	16.5	64
PARDEE		SAUGUS	SAU			52.0	128
*PASADENA	PAS	PASADENA	PAS	23.007	112,707	10.2	27
PEARBLOSSOM		PEARBLOSSOM	PEAR			54.4	185
PEARLAND		PALMDALE	PALM			46.9	184
PICO		NEWHALL	NEW			32.8	126
*PICO RIVERA	PR	PICO RIVERA	PR	8.229	56,164	13.5	54
PINE STORE		LAKE HUGHES	LH			69.1	0
PINETREE		SAUGUS	SAU			42.9	125
PLAYA DEL REY		VENICE	VEN			17.8	31
*POMONA	POM	POMONA	POM	22.888	87,681	31.3	94
PORTER RANCH		NORTHRIDGE	NOR			20.7	116
PORTUGUESE BEND		PALOS VERDES PEN	PVP				77
QUARTZ HILL		LANCASTER	LAN			51.7	171
RANCHO PARK		LOS ANGELES 84	LA				42
RAVENNA		SAUGUS	SAU			52.2	189
REDMAN		LANCASTER	LAN			57.9	1
*REDONDO BEACH	RB	REDONDO BEACH	RB	6.200	59,081	22.7	67
RESEDA		RESEDA	RES			21.7	14
*ROLLING HILLS	RH	PALOS VERDES PEN	PVP	2.993	2,003	24.8	73
*ROLLING HILLS EST	RHE	PALOS VERDES PEN	PVP	3.328	6,874	23.2	73
ROOSEVELT		LANCASTER	LAN			65.9	1
*ROSEMEAD	RM	ROSEMEAD	RM	4.916	41,067	10.5	28
ROWLAND HEIGHTS		LA PUENTE	LPUE			20.3	98
SAINT JOHNS		SAUGUS	SAU			53.4	1
SANDBERG		LAKE HUGHES	LH			54.5	0
*SAN DIMAS	SAD	SAN DIMAS	SAD	15.023	19,969	29.0	89
*SAN FERNANDO	SF	SAN FERNANDO	SF	2.367	15,964	20.8	2
*SAN GABRIEL	SGAB	SAN GABRIEL	SGAB	4.098	29,840	10.4	37
*SAN MARINO	SMAR	PASADENA	PAS	3.750	14,184	10.5	37
SAN PEDRO		SAN PEDRO	SP			29.2	78
*SANTA FE SPRINGS	SFS	SANTA FE SPRINGS	SFS	8.780	15,020	13.8	61
*SANTA MONICA	SM	SANTA MONICA	SM	8.103	89,386	15.9	80
SANTIAGO		PALMDALE	PALM			49.3	183
SAUGUS		SAUGUS	SAU			51.7	127
SEMINOLE HOT SPGS		AGUA DULCE	AGO			39.4	108
SEPULVEDA		SAN FERNANDO	SF			20.8	15
SHERMAN OAKS		SAN NUYS	VAN			17.8	32
*SIERRA MADRE	SMAD	SIERRA MADRE	SMAD	2.935	12,226	16.6	28
*SIGNAL HILL	SH	LONG BEACH 6	LB	≈2.140	5,938	23.2	35
SILVER LAKE		LOS ANGELES 39	LA				39
SLEEPY VALLEY		SAUGUS	SAU			40.8	1
SOLEDAD		SAUGUS			•	38.1	104
SOLEMINT		SAUGUS	SAU			52.6	1
*SOUTH EL MONTE	SELM	EL MONTE	ELM	2.691	16,166	23.7	67
*SOUTH GATE	SOG	SOUTH GATE	SOG	7.374	49,800	9.7	59
*SOUTH PASADENA	SPAS	SOUTH PASADENA	SPAS	3.470	23,215	7.3	36
STUDEBAKER		NORWALK	NWK			14.7	60
SUNKIST		SAUGUS	SAU			47.6	182
SUNLAND	SUN					18.7	10
SUN VALLEY	SV					21.6	2
SYLMAR	SY					23.5	2
SYLMAR SQUARE	SY					23.5	2
SYLVIA PARK	TOP					28.2	109
TALMANTES	PALM					51.8	157
TARZANA	TAR					20.1	21
*TEMPLE CITY	TEC	TEMPLE CITY	TEC	3.786	31,071	13.4	38
TERMINAL ISLAND	SP	SAN PEDRO	SP			28.8	79
THEEQUIENS STORE	LH	LAKE HUGHES	LH			67.6	0
TOLUCA LAKE	NHO	NORTH HOLLYWOOD	NHO			10.5	29
TOPANGA	TOP	TOPANGA	TOP			25.4	109
TOPANGA PARK	TOP	TOPANGA	TOP			27.1	109
*TORRANCE	TOR	TORRANCE	TOR	19.930	137,466	19.1	68
TUJUNGA	TU	TUJUNGA	TU			10.1	11
UNIVERSAL CITY	LA	LOS ANGELES 28	LA			9.0	28
VALENCIA	VAL	VALENCIA	VAL				129
VALENCIA	LPUE	LA PUENTE	LPUE			18.0	97
VALLEY PLAZA	NHO	NORTH HOLLYWOOD	NHO			10.6	28
VALLEY VILLAGE	NHO	NORTH HOLLYWOOD	NHO			12.4	23
VAL VERDE	SAU	SAUGUS	SAU			42.4	121
VALYERMO	VAL	VALYERMO	VAL			62.0	1
VAN NUYS	VAN	VAN NUYS	VAN			18.4	15
VASQUEZ ROCKS	SAU	SAUGUS	SAU			44.6	141
VENICE	VEN	VENICE	VEN			21.0	43
VERMONT CITY	GLEN	GLENDALE 8	GLEN			12.8	28
*VERNON	VER	LOS ANGELES 58	LA	5.015	261	6.9	50
VIEW PARK	LA	LOS ANGELES 43	LA			7.8	51
WALNUT	PALM	PALMDALE	PALM			40.2	184
*WALNUT	WAL	WALNUT	WAL	8.780	8,104	27.7	41
WALNUT PARK	WPA	WHITTIER	WHI			16.4	41
WALTERIA	TOR	TORRANCE	TOR			21.4	78
WARM SPRING	CAST	CASTAIC	CAST			49.5	73
WATTS	LA	LOS ANGELES 2	LA			8.6	49
WESTCHESTER	LA	LOS ANGELES 45	LA			16.9	78
WEST COVINA	WCOV	WEST COVINA	WCOV	18.466	89,771	21.2	42
WEST HOLLYWOOD	LA	WEST HOLLYWOOD 69	LA			8.9	28
WESTLAKE VILLAGE	THO	THOUSAND OAKS	THO			55.0	162
WEST LOS ANGELES	LA	LOS ANGELES 25	LA			12.4	42
WESTWOOD	LA	LOS ANGELES 24	LA			11.1	42
*WHITTIER	WHI	WHITTIER	WHI	12.472	72,191	18.1	41
WILMINGTON	WIL	WILMINGTON	WIL			22.0	78
WINNETKA	LA	LOS ANGELES 44	LA			19.7	28
WINNETKA HILLS	LA	LOS ANGELES 44	LA			4	51
WINNETKA PARK	CHAT	CHATSWORTH	CHA			29.8	51
WINNETKA	LA	WINNETKA	LA			24.3	28
WOODLAND HILLS	WOH	WOODLAND HILLS	WOH			20.3	51
WOODSIDE VILLAGE	WCOV	WEST COVINA	WCOV			20.0	42

* INDICATES INCORPORATED CITIES

USE OF STREET INDEX PAGES . . .

For locating a specific street, and block no., or postal zone, follow the steps listed below:

STREET	CITY	P.O. ZONE	BLOCK NO.	PG. NO.	SEE
ELAINE AV	ART	ART	18500	82	A5
STREET NAME	CITY (Abbrev.)	P.O. ZONE	BLOCK NO.	PAGE NO.	GRID COORDINATES
Step 1	Step 2	Step 3	Step 4	Step 5	Step 6

1) Locate the street name from the alphabetical listing. Numerical streets are listed at the end of the index.

2) Check the city name to avoid incorrect street selection when duplicate names are listed (for different cities).

3) Check the post office zone on the next column (if this data is sought).

4) Check the block number in the next column to determine a precise location on a specific street.
Note: Only the lowest block number for each street is listed within given postal zone or map page.

5) Select the appropriate map page no. from the next column.

6) See the grid coordinates in the next column to pinpoint the desired street on the map page.

TO FIND THE STREET ON THE MAP . . .

a. Turn the page referred to under page no. in the index.
b. Locate the letter referred to under SEE on the index (A thru F).
c. Go down that column until opposite the number referred to under SEE on the index (1 thru 6).
d. The street lies within that grid square.

LIST OF ABBREVIATIONS

Alley	AL	Del	DL
Avenida	Avd	Dos	DS
Avenida De Los As	D L	Drive	DR
Avenue	Av	East	E
Boulevard	BL or BLVD	Estates	EST
Calle	CL	Freeway	FRWY or FY
Calle De Las	CL D L		
Calle del	CL DL	Glen	GN
Calle Dos	CL DS	Green	GRN
Calle El	CL EL	Grove	GRV
Calle La	CL LA	Heights	HTS
Calle Los Dos	CL L D	Highway	HWY
Calle San	CL SN	Lane	LN
Callejon	CLJ	Las or Los	L
Caminito	CMTO	Motorway	MTWY
Camino	CM	Mount	MT
Camino De	CM D	Mountain	MTN
Camino De La	CM D L	North	N
Canyon	CYN	Park	PK
Circle	CIR	Paseo	PAS
Court	CT	Paseo De	PAS D
Cruce	CR	Paseo De Las	PAS D L
Crescent	CRES	Paseo Del	PAS DL
De	D	Plaza	PZ
Point	PT		
Ranch	Rch		
Rancho	RO		
Road	RD		
Saint	ST		
San	SN		
Santa	STA		
Sierra	SRA		
South	S		
Spring	SPG		
Springs	SPGS		
Square	SQ		
Street	ST		
Terrace	TER		
Trail	TR		
Truck Trail	TK TR		
Valley	VLY		
Via De Las	VIA D L		
Via Del	VIA DL		
View	VW		
Vista	VIS		
Walk	WK		
Way	WY		
West	W		

CITIES & COMMUNITIES INDEX
(WITH STATISTICS)

FOR CURRENT INFORMATION
CONTACT LOS ANGELES COUNTY
POPULATION RESEARCH SECTION
MILL OF RECORDS R.M. 1162, 629-9211

TOTAL COUNTY POPULATION 7,005,309
TOTAL INCORPORATED CITIES POPULATION 6,057,869
TOTAL UNINCORPORATED POPULATION 1,077,451

COMMUNITY NAME	ABBR	POST OFFICE	P.O. ABBR	EST. SQ. MILES	EST. POP	MI FROM L.A.	MAP PAGE
ACTON		ACTON	ACT			46.6	169
AGOURA		AGOURA	AGO			32.2	128
AGUA DULCE		SANDUS	SAU			41.6	161
*ALHAMBRA	ALH	ALHAMBRA	ALH	7.819	62,198	8.0	17
ALMONDALE		PEARBLOSSOM	PEAR			54.0	165
ALPINE		SANDUS	SAU			45.7	186
ALTADENA		ALTADENA	ALT			14.1	23
ANTELOPE ACRES		LANCASTER	LAN			64.3	146
*ARCADIA	ARC	ARCADIA	ARC	11.252	45,370	16.5	28
ARLETA		PACOIMA	PAC				8
*ARTESIA	ART	ARTESIA	ART	1.614	14,826	18.8	52
ATHENS		LOS ANGELES 44	LA			11.5	57
*AVALON	AVA	AVALON	AVA	1.210	1,571	44.2	77
*AZUSA	AZU	AZUSA	AZU	7.456	25,908	24.5	96
*BALDWIN PARK	BAP	BALDWIN PARK	BAP	6.795	47,327	17.7	39
BASSETT		LA PUENTE	LPUE			15.2	49
BEL AIR ESTATES		LOS ANGELES 24	LA			14.0	32
*BELL	BELL	BELL	BELL	2.913	21,404	9.1	53
*BELLFLOWER	BLF	BELLFLOWER	BLF	6.175	51,824	17.0	66
*BELL GARDENS	BG	BELL	BELL	2.294	29,237	9.1	53
BELMONT SHORE		LONG BEACH 3	LB				76
BEVERLY GLEN		LOS ANGELES 24	LA			14.5	32
*BEVERLY HILLS	BH	BEVERLY HILLS	BH	5.696	33,579	10.0	33
BIG PINES		WRIGHTWOOD				61.2	1
BOYLE HTS		ELAND	ELAN			6.1	1
BRENTWOOD PARK		SANDUS	SAU			30.0	124
BRYN MAWR		LOS ANGELES 33	LA			2.3	45
*BURBANK	BURB	BURBANK	BUR	1.996	1,113	21.1	24
CALABASAS JUNCTION		CALABASAS	CAL			29.9	101
CANOGA PARK		LOS ANGELES 49	LA			25.1	61
*CARSON	CAR	CARSON	CAR	17.128	88,205	18.9	17
CALABASAS		CALABASAS	CAL			26.2	100
CALABASAS HIGHLND		CALABASAS	CAL			28.7	100
CALABASAS PARK		CALABASAS	CAL				100
CANOGA PARK		CANOGA PARK	CAN			25.7	12
CANYON COUNTRY		SAUGUS	SAU			47.4	125
*CERRITOS	CER	CERRITOS	CAR	10.685	73,034	18.5	69
CASTAIC		CASTAIC	CAST			39.2	3
CASTELLAMMARE		PACIFIC PALISADES	PP			19.9	49
LANCASTER		LANCASTER	LAN			63.2	0
CENTURY CITY		LOS ANGELES 67	LA			12.9	42
*ARTESIA	CER	ARTESIA	ART	8.788	22,973	18.8	52
CHATSWORTH		LANCASTER	LAN			67.8	0
CHEVIOT HILLS		CENTRAL	CEN				89
CHINATOWN		CHINATOWN	LOS			30.5	6
CITY TERRACE		LOS ANGELES 63	LA			4.0	41
*CLAREMONT	CLA	CLAREMONT	CLA	7.278	28,345	32.4	91
*COMMERCE	COMC	LOS ANGELES 40	LA	6.556	12,536	7.0	53
*COMPTON	COM	COMPTON	COM	9.587	70,397	11.6	64
CORNELL		AGOURA	AGO			35.9	108
*COVINA	COV	COVINA	COV	5.967	31,693	22.2	80
*DELANO	DEL	DELL	DELL	1.664	17,929	12.2	59
*CULVER CITY	CUL	CULVER CITY	CUL	4.875	35,469	10.9	50
DEL SUR		LANCASTER	LAN			69.2	148
DEL VALLE		SANDUS	SAU			39.6	126
DENES		PALMDALE	PALM			51.8	172
DIAMOND BAR		POMONA	POM			31.1	94
DOMINGUEZ		LONG BEACH	LB			15.7	74
*DOWNEY	DOW	DOWNEY	DOW	12.755	89,727	13.0	61
DUARTE	DUA	DUARTE	DUA	6.584	15,083	19.0	29
EAGLE ROCK		LOS ANGELES 41	LA			8.2	26
EAST LOS ANGELES		LOS ANGELES 22	LA			9.1	45
EAST SAN PEDRO		SAN PEDRO	SP			25.2	79
ELIZABETH LAKE		PALMDALE	PALM			55.6	157
*EL MONTE	ELM	EL MONTE	ELM	9.352	69,964	12.3	67
EL NIDO		REDONDO BCH	RB			17.4	67
*EL SEGUNDO	ELS	EL SEGUNDO	ELS	5.509	15,685	19.5	56
EL SERENO		LOS ANGELES 32	LA			9.2	38
ENCINO		VAN NUYS	VAN			18.0	23
FAIRMONT		LANCASTER	LAN			65.5	0
FERNWOOD		TOPANGA	TOP			28.2	109
FIVE POINTS		EL MONTE	ELM			24.1	67
FLINTRIDGE		PASADENA	PAS			11.5	19
FLORENCE		LOS ANGELES 1	LA			5.2	54
FOREST PARK		SANDUS	SAU			40.6	125
*GARDENA	GAR	GARDENA	GAR	5.744	46,353	14.2	63
GLASSELL PARK		LOS ANGELES 65	LA			5.9	35
*GLENDALE	GLEN	GLENDALE	GLEN	29.286	133,107	7.1	25
*GLENDORA	GLDR	GLENDORA	GLDR	13.615	31,925	25.9	87
GLENVIEW		TOPANGA	TOP			27.6	109
GORMAN		LANCASTER	LAN			65.1	0
GRANADA HILLS		SAN FERNANDO	SF			21.2	7
GREEN VALLEY		SANDUS	SAU			50.8	159
HACIENDA HEIGHTS		LA PUENTE	LPUE			21.4	85

COMMUNITY NAME	ABBR	POST OFFICE	P.O. ABBR	EST. SQ. MILES	EST. POP	MI FROM L.A.	MAP PAGE
HARBOR CITY		HARBOR CITY	HAC			26.1	73
*HAWAIIAN GARDENS	HG	HAWAIIAN GARDENS	HG	0.950	9,576	21.8	81
*HAWTHORNE	HAW	HAWTHORNE	HAW	5.581	56,257	15.7	67
*HERMOSA BEACH	HB	HERMOSA BEACH	HB	1.360	17,644	20.0	62
*HIDDEN HILLS	HH	CALABASAS	CAL	1.377	1,568	27.1	100
HIGHLAND PARK		LOS ANGELES 42	LA			6.1	36
HOLLYWOOD HIGHLANDS		LA CRESCENTA	LCR			14.4	23
HIGHWAY		LANCASTER	LAN			77.4	1
HUNTINGTON		SOUTH GATE	SOG			12.0	59
HYDE PARK		LOS ANGELES 28	LA			6.8	34
HOLLYWOOD		DOWNEY	DOW			12.3	61
HUNTINGTON		SANDUS	SAU			33.6	1
*HUNTINGTON PARK	HPK	HUNTINGTON PARK	HPK	2.972	33,508	5.2	53
*INDUSTRY	IND	LA PUENTE	LPUE	10.366	711	22.0	84
*INGLEWOOD	ING	INGLEWOOD	ING	9.102	89,915	13.0	57
*IRWINDALE	IRW	BALDWIN PARK	BAP	9.493	776	17.6	39
IRWINDALE		SAN FERNANDO	SF				3
KAGEL CANYON		LA CANADA	LAC			13.1	29
LA CANADA		GLENDALE	GLEN			17.1	11
LA CRESCENTA		LA HABRA HEIGHTS	LHH			23.8	84
LA HABRA HEIGHTS		LAKE HUGHES	LH			58.8	157
LAKE HUGHES		LANCASTER	LAN			53.4	174
LAKE LOS ANGELES		CANOGA PARK	CAN			30.1	6
LANCASTER		PALMDALE	PALM			61.2	183
LANCASTER TERRACE		SAN FERNANDO	SF			24.0	9
*LAKEWOOD	LAK	LAKEWOOD	LAK	9.583	82,334	19.5	71
*LA MIRADA	LAM	LA MIRADA	LAM	6.304	31,858	19.6	83
LANCASTER		LANCASTER	LAN			56.0	160
LANG		SAUGUS	SAU			37.1	124
*LA PUENTE	LPUE	LA PUENTE	LPUE	3.446	37,068	18.5	48
LA QUINTA		LA QUINTA	LAQ			15.8	0
*LA VERNE	LAV	LA VERNE	LAV	8.263	13,333	31.2	95
LAWNDALE		LAWNDALE	LAW	1.931	24,894	14.4	63
LENNOX		INGLEWOOD	ING			15.6	57
LINCOLN CREST		SANDUS	SAU			49.8	1
LITTLE ROCK		LITTLE ROCK	LR			62.0	184
LLANO		LLANO	LLAN			59.5	166
*LOMITA	LOM	LOMITA	LOM	1.930	19,912	20.5	74
*LONG BEACH	LB	LONG BEACH	LB	49.807	361,031	22.0	75
LYNWOOD		PEARBLOSSOM	PEAR			56.0	165
MALIBU		LONG BEACH	LB			24.7	76
*MAYWOOD	MAY	LOS ANGELES	LA	1.153	29,915	8.8	44
MEADOWBROOK		LOS FELIZ					44
MENLO		LOS ANGELES 27	LA				66
MONTEREY		WHITTIER	WHT			15.2	64
*MONTEREY PARK	MPK	LYNWOOD	LYN	7.892	62,661	10.6	64
MONTEREY HILLS		MALIBU	MAL			27.1	114
MONTEREY PARK		MALIBU	MAL			32.9	114
MONTEREY PARK		MALIBU	MAL			32.8	115
MONTEREY PARK		AGOURA	AGO			33.9	102
MONTEREY PARK		AGOURA	AGO			37.0	102
MONTEREY PARK		MALIBU	MAL			35.1	109
MONTEREY PARK		MALIBU	MAL			32.8	115
*MONTEREY PARK	MPK	MANHATTAN BEACH	MB	3.877	35,499	20.0	62
MONTEREY PARK		LOS ANGELES 49	LA			22.7	49
MONTEREY PARK		LAKEWOOD	LAK			19.6	71
*MONTEREY PARK	MPK	MONTEREY PARK	MPK	7.321	49,305	7.8	45
MONTEREY PARK		MONTROSE	MONT			11.7	18
MONTEREY PARK		LOS ANGELES 49	LA			8.4	33
MONTEREY PARK		LOS ANGELES 89	LA			7.9	36
MONTEREY PARK						20.2	6
MONTEREY PARK		LONG BEACH 3	LB			20.0	88
MONTEREY PARK		LANCASTER	LAN			72.7	0
MONTEREY PARK		NEWHALL	NEW			34.0	127
MONTEREY PARK		NORTH HOLLYWOOD	NHO			13.3	16
MONTEREY PARK		NORTH LONG BEACH	LB			16.6	70
MONTEREY PARK		NORTHRIDGE	NOR			24.0	7
*NORWALK	NWK	NORWALK	NWK	9.262	97,277	15.7	62
NORWOOD VILLAGE		EL MONTE	ELM				38
OASIS		LANCASTER	LAN			61.1	148
OCEAN PARK		SANTA MONICA	SM			15.5	69
OLIVE VIA		SAN FERNANDO	SF			20.0	2
OLIVE VIEW		PACIFIC PALISADES	PP			18.5	48
OLYMPIA		PACOIMA	PAC			19.0	8
PACIFIC PALISADES		PACIFIC PALISADES	PP				49
PALLETT		PEARBLOSSOM	PEAR			57.5	192
*PALMDALE	PLM	PALMDALE	PALM	42.055	8,986	47.8	172

* INDICATES INCORPORATED CITIES

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